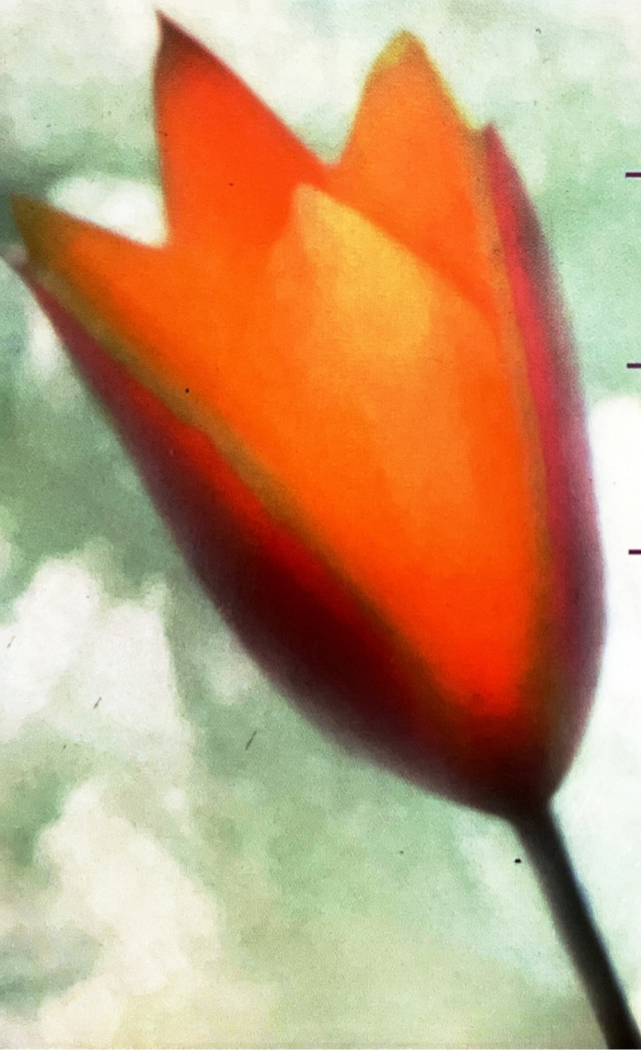
Women

Between
The Tyranny of the Western System
And the Mercy of the Islamic Law

by

Dr. Muḥammad Sa'īd Ramaḍān al-Būṭī



Translated by
Nancy Roberts

Revised by
Anas al-Rifā'ī

Dar al-Fikr
Damascus-Syria

Dar al-Fikr al-Mouaser
Lebanon-Beirut

IN THE NAME OF GOD,
THE MOST MERCIFUL,
THE MOST BENEFICENT

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And Mercy of the Islamic Law

Dr. Muhammad Sa'id Ramadan al-Buti

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In the name of God, the Most Merciful, the Bestower of Mercy

Praise be to God, by whose grace all acts of goodness are performed!

May blessings and peace be upon our liegelord, Muḥammad, the unlettered prophet, and upon all of his household and faithful Companions.

I ask God Almighty to inspire me with wisdom, to honor me with the grace of pure-hearted devotion to Him alone, and to render this effort of mine fruitful in this world and acceptable to Him in the world to come.

God, for a certainty, is the One who hears and answers.

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Translator's Preface

Despite increasing awareness of Islam in the West and attempts to rectify the inaccurate notions common among Westerners concerning who Muslims are, what they believe, what they do, and what they have contributed to the progress and well-being of Western civilization, there continues to be a prevailing belief among Westerners that Islam relegates women to the status of little more than "chattels" with few, if any, genuine rights. The alarming situations in Afghanistan and elsewhere and the misuse of power by various and sundry "Islamic" regimes, particularly as it affects the dignity and well-being of women, has contributed further to this distressing misconception. It is within this context that the present work finds its significance. In a well-documented, lucid manner, Dr. al-Būtī offers readers in Western countries -- be they converts to Islam who seek a better grasp of the teachings of their new faith, students of Arabic language, literature and culture, or inquirers into Islam and its tenets – a more accurate, comprehensive understanding of Islamic teachings as they pertain to women.

Western readers and/or those who have lived in close contact with the West might find themselves reacting defensively to certain criticisms which Dr. al-Būṭī levels against "Western" ways of life and thinking. However, such reproach need not be taken as a denial of the positive aspects of Western culture, whether with respect to society as a whole or with respect to women's rights as such. One notes, for example, the positive contribution made by the West toward encouraging women's education, which is itself fully consonant with the teachings of Islam. There is, admittedly, what might be termed an "extreme" in the West whereby women have been expected increasingly to fulfill the roles of both men and women simultaneously, for example, by working outside the home out of real or perceived financial necessity while still being required to fulfill their domestic responsibilities as wives and mothers. However, it is important to bear in mind that pressures such as these have become more prevalent in Middle Eastern societies as well due to sheer economic necessity. As a consequence, actual practice in relation to women and their rights in Middle Eastern societies has often strayed from the Islamic ideal of giving the woman a choice between practicing a profession outside the home or not doing so.

The author's primary intention is thus not to point out the failings of "the West" -- as if to suggest that Western societies represent a monolithic entity which admits of no individual or regional variations in practice, or that there is no gap in Eastern societies between the Islamic ideal on one hand, and actual practice on the other. Rather, the writer's primary aim here is to provide an accurate presentation of the teachings of Islam as they pertain to the woman and her rights. In so doing, he seeks to provide a needed corrective to prevailing notions in Western societies to the effect that injustices against women in Eastern, Islamic societies are simply outgrowths of Islam's teachings when they are, in actual fact, a tragic violation of these very teachings. For in point of fact, the teachings of the Qur'an present us with a remarkable recognition of male-female equality. In her book entitled, *Women and Gender in Islam*, Professor Leila Ahmed speaks of "Islam's ethical vision" as being "stubbornly egalitarian."[1] Ahmed goes on to observe that "this egalitarianism is a consistent element of the ethical utterances of the Qur'an. Among the remarkable features of the Qur'an, particularly in comparison with the scriptural texts of other monotheistic traditions, is that women are explicitly addressed . . .", a phenomenon which affirms "the absolute moral and spiritual equality of men and women."[2]

We are witnessing a time when abuses of women in the name of Islam threaten to exacerbate already existing misunderstandings of what this noble religion actually teaches about women, their rights, and their role in society. Hence, it is my hope that by presenting this work for the first time to an English readership, I can offer both men and women -- be they of Western origin or Eastern, and be they Muslims or of other religious persuasions -- a reference which will provide a more accurate understanding of the active, influential place occupied by Muslim women in the world when the teachings of Islam are properly understood and applied.

Nancy Roberts
Amman, Jordan
December, 2001

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[1] **Women and Gender in Islam: Historical Roots of a Modern Debate**, Yale University Press, 1992, p. 63.

[2] Ibid., p. 64.

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[2] Ibid., p. 64.

About the Author

Born in 1929 in a Turkish village not far from the Turkish-Iraqi border, Muhammad Saʿīd Ramaḍān al-Būṭī emigrated with his father, the late Mullā Ramaḍān, to Damascus when he was four years old. At the age of 24, he enrolled in the Faculty of Islamic Law at Cairo's Azhar University, and following his graduation in 1955, he went on to obtain a diploma in Education from Azhar's Faculty of Arabic Language. After being appointed as an assistant professor in Damascus University's Faculty of Islamic Law in 1960, he was sent back to Azhar to obtain a Ph.D. in the Principles of Islamic Law, which he completed in 1965. Then, after returning to Damascus University in 1965 as an instructor, he was appointed Dean of its Faculty of Islamic Law. Dr. al-Būṭī presently serves as the head of Damascus University's Department of Doctrines and Religions.

Dr. al-Būṭī has taken part in numerous international conferences and seminars dealing with various aspects of Islamic culture and civilization in the Middle East, in other Islamic countries, and in Europe and the United States. He is a member of the Royal Academy for Research on Islamic Culture in Amman, Jordan, and of the Higher Council of the Oxford Academy.

Having authored over forty books and articles dealing with Islamic Law, literature, philosophy, and various cultural and social problems, Dr. al-Būṭī contributes on a regular basis to a number of newspapers and magazines. Part of this contribution involves responding to the many questions he receives from readers pertaining to current issues, personal and social problems, and Islamic legal rulings relating to people's daily concerns. In addition to his weekly television program on Syrian Television, "Lessons from the Qur'an", Dr. al-Būṭī lectures on an almost daily basis in mosques both in Damascus and other areas of Syria.

* * *

Introduction

Islamic rulings relating to the woman are not the outgrowth of time-bound developments, human revolutions, or evolving customs; rather, they are as old as Islam itself. Even so, we heard no one criticize such rulings, in whole or in part, in the name of support for and defense of women, until the present era. What is the reason for this? Were previous generations less concerned about women and their interests? Were they less aware of the view being expressed by modern writers and researchers that Islam has been unfair to the woman with respect to the rights it has granted her and the duties it has imposed on her? The reason for this phenomenon lies neither here nor there. After all, those who lived before us were no less zealous in defense of the woman and her rights than we are today; nor is the present generation more adept than its predecessors at understanding Islamic law and detecting its flaws or shortcomings (and God forbid that it should be afflicted with either!).

Rather, the reason for this phenomenon is that in the past, the West was not in a position to plot harm against Islam, since it was still too preoccupied with the tasks of reforming itself, overcoming its own problems, and working on achieving inward unity. However, when it managed to get on its feet, as it were, and to awaken from its backwardness, it perceived Islam and Muslims as a threat to its newly-experienced renaissance. At the same time, the accumulated wealth which God had granted the Muslims acted as a lure which whetted Western nations' appetite for what the Muslim lands had to offer. Consequently, it became an overriding concern in the West to strive to penetrate, and indeed, to destroy the bastion which had served heretofore as the most powerful and significant protection for the Muslims against whatever danger may have surrounded them or threatened to infiltrate their ranks. This bastion was none other than Islam, including its well-established, precise teachings about life, human beings and the universe, and its rulings on conduct which had enabled Muslims to attain an advanced level of human civilization.

After examining the situation, Western leaders determined that the field of education would be the ideal arena in which to execute their scheme and bring it to its desired conclusion, and that women and issues relating to them were likely to be the most effective tool by which to impose their brand of education in place of the rightly guided Islamic education which was then in existence. In so saying, of course, we are not revealing anything new; on the contrary, this type of intrigue on the part of the West is such a well-recognized phenomenon that even the most naive and simple are aware of it. Henry Jessup, one of the most eager bearers of Western colonialism to Syria, once wrote candidly, "The girls' schools are the apple of my eye! I have always sensed that Syria's future lies in the education of its girls and women. Our girls' school in Beirut still lacks its own building, but despite this fact, it has aroused great interest on the part of the evangelistic societies."[1]

But, how could this tool be put to use? It could be put to use by the West's inciting women against Islam and its codes of behavior on the pretext that Islam had not been fair to women, had not nurtured their humanity, and had not guaranteed them their full rights. Once they had achieved this aim, they could instill affection in such women's hearts for the Western system, thereby leading them to see this system as the only order in the world that would uphold their rights, safeguard their dignity, and affirm their equality with men in all areas of life.

By means of this process, the Muslim woman would be transformed into an element of resistance against Islam, a willing instrument in the hands of the West, and a herald on behalf of its principles and ideas. Moreover, in view of the fact that the woman is the primary source of her children's upbringing and education, the Muslim woman would now become the ideal inculcator of Western notions and behaviors in the nascent generation of Muslims. This, in turn, would cause Islam to lose its authority over Islamic society by dint of the direct efforts of the Muslims themselves.

This, then, is the reason that until quite recently, you have heard nothing of what is said or written today by Muslim or non-Muslim thinkers about Islam's neglect of women's rights. There is no doubt that the reality I have described is a disaster in the making. However, the greatest disaster lies neither in the fabrication of falsehoods about Islam, nor in the West's show of phony sympathy for the Muslim woman in Islamic society. Rather, the disaster lies in the attitude taken by some Muslims toward such fabrications and the hypocrisy concealed behind them.

---

[1] Al-Tabshīr wa-al-Isti'mār (Evangelism and Colonialism), by Muṣṭafá al-Khālidī and 'Umar Farrūkh, p. 39.

In the face of the West's deceitful pretense of virtue, Muslims find themselves in one of two groups. Those in the first group are merely nominal Muslims whose allegiance belongs in actual fact to the West, its order and its ways. Consequently, they remain in support of this hypocrisy, both as an overall approach and in its specific expressions. As for the second group, it is composed of individuals who are Muslims in a genuine, inward sense and who are convinced of the fairness of Islam's principles and precepts. However, the stance they take in the face of this hostile bigotry is that of a suspect cringing in the prisoner's dock! In other words, they find themselves on the defensive; not only so, but the manner in which they defend themselves, rather than appealing to people's reason, simply arouses their pity. Both these attitudes contribute to the same overall tragedy -- i.e., that of bringing Islam down from the lofty plane to which it belongs and where it radiates truth, draws people's souls and guides their minds -- whether by people's turning away from Islam, or by the demeaning way in which they advocate and defend it.

What makes this tragedy all the more bitter is that one concludes that the woman in those Western societies which shed crocodile tears over the state of Muslim women is happy with her life, enjoying her full rights and a sense of dignity. However, when you examine the facts more closely, you discover that her dignity has been crushed, she has been fed with illusions about her rights, and she has become -- knowingly or unknowingly -- a mere instrument of the man's pleasure and an outlet for his physical desires. For, in actual fact, those who lament the condition of Muslim women here are the very people who have drowned the Western woman in a sea of lostness, degradation, and deprivation in their own lands!

Indeed, this is what intensifies the pain and bitterness of the tragedy embodied in the nominal Muslims who have been dazzled by the West's systems and its hypocrisy toward the woman. This bitterness is further intensified when we read the insulting words which have been penned in defense of Islam and its stance toward women. Such lines have been written by individuals who, without a doubt, are laboring under the burden of their blind infatuation with the deceits of Western phenomena, customs and systems. As a consequence, not one of them has the strength -- however much he speaks and defends -- to remove himself from the "prisoner's dock."

Imagine what a disaster it would be for a thief to pretend to be staging a revolution out of zeal for people's rights and property and out of sympathy for the weak and oppressed. However, such a disaster would be all the more overwhelming if we found that there were people who had been so taken in by the thief's charade and so moved by his clamorous expressions of pity that they were embarrassed to show contempt for hypocrisy and hypocrites and to point people to the truth with a sense of pride and confidence!

* * *

In light of the foregoing, I will deal in the chapters below with the status of the woman in Islam. However, I will not do so in the form of an obsequious defense made by some "prisoner at the bar", as it were; rather, the starting point for my discussion is one of concern for the fate of the Western woman today and the search for a way to release her from the oppressive effects of the Western system.

As for the word "rights" -- which is bandied about with such ease in Western circles and which is dealt with so prolifically in Western writings and lectures -- we find that its content, which embodies the very spirit of humanity, has been lost and rent asunder in a raging sea of words, forgotten and abandoned in the darkness that lies concealed behind the jargon of diplomacy and the wiles of dissimulation. Therefore, we will deal with the content of the word "rights" without allowing ourselves to be held captive by the deceit of words or letting our sight be blinded by the luster of labels and terminology. Rather, our search will be for the facts alone, and our sole criterion for judging claims will be that of sound reasoning and justice.

In my discussion of women's status in Islam, my object will be to determine the value of the claim made by some that Islam has neglected women's place and negated many of their rights. Hence, we will not concern ourselves at the outset with the fact that a number of practices and customs which were prevalent in pre-Islamic times have continued to be followed in some Islamic societies and, in fact, have supplanted the order and rule of Islam. (This is especially true in numerous villages where the force of ignorance still holds sway to a great extent.) For it is not our concern, nor is it the concern of truth or those who cling to it, to allow our judgments on Islam to be colored by the offenses committed by those who either know nothing about true Islam or choose to turn away from it. Nevertheless, I have devoted the concluding chapter of this book to a treatment of such holdover practices from pre-Islamic days. In so doing, I make clear how senseless such practices are in reality and what a far cry they are from the sound guidance and principles of Islam. At the same time, I stress the necessity of being wary of such customs; in fact, I call upon those in positions of authority and administrative influence to work toward ridding our Islamic societies of these practices and their unwholesome consequences.

All of this is my intention if I live long enough, by God's grace, to carry this task to completion after having had the honor of communicating these same thoughts in the form of a series of talks aired on Arab Syrian Television as part of my weekly program entitled, "Lessons from the Qur'an."

O God, I ask You not to leave me to my own devices in what I think or write.

Deliver me from the temptation to be carried away by mere whims and desires,
be they my own or those of others.

And grant, O God, that in all I say and do,
my soul's most cherished desire would be
to please You alone.

* * *

Chapter One

The Source of Women's Rights and Duties in Islamic Law and Western Societies

Introduction

The members of every human society, whatever type it happens to be and whatever its system of beliefs, have duties they are expected to fulfill as well as rights which they enjoy. In fact, the meaning of the term "society" hangs, in large part, on the coordinated balance of these two elements, that is, rights and duties. Nevertheless, human societies differ with respect to the specific factors and causes which determine the rights and duties which characterize them. This, in turn, is related to the system of religious beliefs and concepts or social philosophy to which the society in question subscribes, as well as the prevailing customs which hold sway over its members. Moreover, it goes without saying that the woman in all such societies is bound to have both rights which she enjoys, and duties which she is expected to perform. In this respect, there is no essential difference between the woman and the man, regardless of the degree of equality or inequality which exists between them.

This being the case, what is it that determines the woman's rights and duties in the balance of Islamic law on one hand,

and in the reality of Western societies on the other? Before I respond to this question, I should note that I have deliberately chosen to make use of the expression, "the *reality* of Western societies" rather than the alternative, "the *system* of Western societies." The reason for this is that the West does not, in the context of its prevailing reality, adhere to any written or stated system with respect to this issue; rather, it is ruled in this area by an instinctual, materialistic drive.[1] Islamic societies, by contrast, are still subject with respect to this issue -- as they are with respect to numerous other issues as well -- to the dictates of the principles and values of Islamic law. Whatever might be said about the Western customs and convictions that have infiltrated Islamic societies, such infiltration nevertheless remains a relative phenomenon, while the degree of influence by and acquiescence to such customs and convictions in most such societies remains weak by comparison with the force exercised by Islam and its principles.

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[1] The aim of this work is to deal with the significance and implications of overall trends, rather than exceptions, which are observable in Western and Eastern societies. In the case of Western culture, there is an unmistakably secular quality which prevails in the social, political, economic and personal spheres; however, this is not to deny the existence of spiritual, religiously based values and lifestyles which continue alongside the "materialistic, instinctive drive" to which the author refers, for example, among devout Christians in the West [translator's note; thenceforth marked as "t.n."].

The source of women's rights and duties in Islamic law

The duties which have been assigned to the woman under Islamic law have a single source, namely, her status as a servant of God Almighty. Human beings' status as servants of God is one of the most fundamental, intuitively compelling facts of the Islamic religion and indeed, of the universe; it is likewise one of the most basic requirements of a certain faith in the existence of God, may His power and majesty be exalted. It is plain to see that there is no distinction in this respect between the man and the woman, since servanthood implies a state of being "owned", and since there can be no doubt that both the man and the woman are equally "owned" by God, the Creator of all. It follows, then, that their status as servants of God is one and the same, both in essence and in degree. A further conclusion that may be drawn on the basis of these realities is that the duties which God has assigned His male servants are the same as those He has assigned to His female servants.

Such duties are often referred to as "God's rights". This may be seen in the tradition narrated by Muslim with his own chain of transmission, according to which Mu'ādh reported that the Prophet (pbuh) stated, "God's right over His servants is that they should worship Him alone and not associate any created being with Him, while the servants' right over God, if they worship God and do not associate any created being with

Him, is that He should spare them the torment of His chastisement."[1]

This tradition combines the themes of what we refer to here as "rights" and "duties", speaking of the first as "servants' rights over God" and of the second as, "God's rights over His servants." Each of these two categories branches off into a wide variety of legal rulings, and everything you read in Islamic law by way of principles and precepts has its origin either in the realm of duties, that is, what are referred to as "God's rights", or in the realm of rights, that is, what are referred to as "servants' rights." If you reflect on the Prophet's statement about "God's right over His servants", you will realize that the word "servants" here refers not only to men, but to women as well, and it is this which affirms that the duties which God has assigned to His servants admit of no distinction between male and female.

However, someone might object, saying, "Why is it, then, that men are addressed with responsibilities that are not given to women, and vice-versa?" An example of the first type is the responsibility to support one's family financially and to perform the Friday congregational prayer together with others in a mosque, both of which are responsibilities assigned to men alone. As for the second type, it includes the responsibility for raising children and the obligation to conceal one's physical charms when in the presence of strange men, both of which are the responsibilities of women alone.

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[1] The full text of this tradition is as follows: "The Messenger of God (pbuh) said, "Mu'ādh, do you know what God's right over His servants is?" Mu'ādh replied, "God and His Messenger know best." So the Prophet (pbuh) explained, "That they should worship Him alone and not associate any created being with Him." Then he (pbuh) asked him, "Do you know what God's servants have a right to if they do these things?" "God and His Messenger know best", replied Mu'ādh. And he (pbuh) said, "That God should spare them the torment of His chastisement."

The answer to this question is that this difference is not based on any distinction between masculinity and femininity *per se*, or between men and women *per se*. Rather, it is based on other, external factors relating to the human interests for the sake of which these responsibilities were assigned. The Friday congregational prayer, for example, was established as a means of bolstering Muslims' unity; however, the value in this practice is only stressed when it does not interfere with the fulfillment of some more vital interest. Thus, if some other, more urgent interest arises at any given time, the duty to perform the Friday prayer in the mosque is dropped in its favor, regardless of whether the individual concerned is a man or a woman. For example, if a man's attending the Friday prayer in the mosque would result in his neglecting the care of a sick person due to the unavailability of anyone else to stand in for him during his absence, he is not obliged to attend the communal prayer; in fact, his primary duty is to remain at the sick person's side, keeping him or her company and attending to his or her needs. Conversely, since a woman's attending the communal Friday prayer could be construed as a sign of neglect of a similar interest, namely, the care and nurture of her young children, she is not required to attend this prayer communally. What bears noting here is that the consideration which exempts the woman from the duty to attend the Friday congregational prayer is, in essence, the same as that which exempted the man from this duty in the example cited above. Hence, it is important to bear in mind that femaleness as such plays no role in the woman's being exempted from this duty, just as maleness as such has nothing to do with this duty remaining in effect.

The clearest evidence in support of this is that if a woman takes part with men in attending and performing the Friday congregational prayer, the prayer she performs in community is fully valid and takes the place of the Friday noon prayer which she would have performed at home. In this respect, she is no different from the man who has been exempted from the Friday congregational prayer due to circumstances similar to those faced by a woman with children in her care, but who, nevertheless, attends and performs the Friday communal prayer. That is, as in the case of the woman, his prayer is fully valid and takes the place of the Friday noon prayer. This ruling is in accordance with the principle that "If someone's noon prayer is valid, his or her Friday congregational prayer will be valid as well."[1]

As for the duty to provide financial support for the nuclear family, this has been assigned to the man in his capacity as father and husband, since he is the primary party involved in the process of earning money. This particular arrangement is effective for all times due to social causes which we shall explain more fully below, God willing. One of the most significant reasons for the continuing validity of this arrangement despite ongoing changes in customs and civilizations is that if the woman were forced to take on the role of monetary provider such that she replaced the man in this sphere, or even simply engaged in this task equally with the man, the most sacred of all social functions, namely, that of ensuring that young children receive nurture and a sound upbringing, would be left unfulfilled. After all, the man is not capable of taking on this task in the woman's place; however, it is important for my reader to understand that masculinity and femininity *per se* have no bearing on this matter except insofar as they are tied to the unique role fulfilled by the woman in her capacity as nurturer and caregiver in children's early days.

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[1] See **Al-Hidāyah by al-Marghīnānī**, 1/59; **Al-Sharḥ al-Ṣaghīr** by Al Dardīr, 1/494, and **Mughnī al-Mūḥtāj bi Sharḥ al-Minhāj** by Al-Shirbīnī, 1/277.

Similarly with respect to the duty to engage in "holy war" (jihād)[1], one of the most fundamental conditions which must be fulfilled in order for an individual to be obliged to participate in it is that it not require him or her to abandon some other duty of equal or greater importance. If one's going out to take part in jihād does require such a choice to be made, the obligation to engage in jihād is overruled regardless of whether the individual concerned is a man or a woman.

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[1] That is, armed struggle in defense of Muslims' rights and/or land when these are under threat [t.n.].

One application of this ruling as it applies to men is illustrated in the words spoken by the Messenger of God (pbuh) to a man who came requesting his permission to go out on jihād. In response, the Prophet (pbuh) asked, "Are your parents alive?" "Yes," the man replied. "So then," he (pbuh) told him, "your jihād consists in serving them."[1] As for the waiver of the woman's obligation to take part in jihād, it is not based on her femaleness as such, but rather, is simply another application of this same principle, since her going out for jihād could, in some situations, require her to neglect the more important duty of providing nurture and care for her children.

A prime illustration of what we are saying may be found in the fact that if a situation arises in which there is a general call to arms due to a Muslim land's having been invaded or otherwise assaulted by an enemy, jihād becomes obligatory for everyone without exception, since its urgency overrides other interests which, if the conflict were taking place outside the bounds of the Muslim community, would nullify someone's obligation to take part in it.

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[1] This account, narrated by al-Bukhārī and Muslim, is based on the tradition attributed to 'Abdullāh Ibn 'Amr Ibn al-'Āṣ, where Muslim's version reads as follows: "A man once approached the Messenger of God (pbuh) and said, 'I pledge to you my willingness to emigrate and engage in jihād in the hope of reward from God.' The Prophet (pbuh) asked him, 'Is either of your parents still living?' 'Yes,' replied the man, 'in fact, both of them are still alive.' 'So,' the Prophet (pbuh) asked him, 'you wish to receive a reward from God?' 'Yes, I do,' said the man. 'If so,' he (pbuh) replied, 'Go back to your parents and be the best of companions to them.'"

The same thing applies to the duty to take care of young children and to conceal one's physical charms, both of which have been assigned to women alone. For if men were given the responsibility of caring for young children, they would be taken away from a task which, where they are concerned, is of greater importance, namely, that of fulfilling a variety of social and economic functions which women would find it more difficult to perform.

With respect to the duty to conceal one's physical charms, if women were enticed by the things in men that men are enticed by in women, this duty would be assigned equally to women and men. However, given the characteristics and dispositions with which God created His servants, male and female, we find that the attributes in a man that arouse a woman's desire are different from the attributes in a woman that arouse a man's desire; accordingly, the divine law applies differently in this area to women on one hand, and to men on the other. Nevertheless, certain rulings in this same area are equal for men and women, namely, those which apply to what is common to both sexes; hence, for example, both men and women are required to conceal the area between the navel and the knee, since the potential temptation represented by this area of the body is equal for both genders.

In sum, then, it may be said that masculinity and femininity *per se* have nothing to do with the differences which exist in Islamic law between the duties assigned to men and women. Rather, the differences, when they arise, are due to external events and circumstances such as those we have mentioned in our examples above. Moreover, we have seen that such events and circumstances can result in rulings which differ even from one man to another or from one woman to another. The truth of what we are saying is verified by the account recorded by Imam Aḥmad Ibn Ḥanbal in his **Musnad** and by al-Nasā'ī in his **Sunan** according to which Umm Salamah once asked the Messenger of God (pbuh), "Why is it that we [women] aren't addressed in the Qur'an the way men are?" In response to her concern, the following words of the Qur'an were revealed: "Indeed, the Muslim men and Muslim women, the believing men and believing women, the obedient men and obedient women, the truthful men and truthful women, the patient men and patient women, the humble men and humble women, the charitable men and charitable women, the fasting men and fasting women, the men who guard their private parts and the women who do so, and the men who remember Allāh[1] often and the women who do so -- for them Allāh has prepared forgiveness and a great reward" [Al-Aḥzāb (The Confederates) 33: 35].

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[1] Readers may note a discrepancy between the use of "Allāh" in the Qur'anic quotations and my use of the appellation "God" in the rest of the text. My use of "God" rather than "Allāh" to refer to the Divine is a deliberate choice based on the fact that although the term "Allāh" is, in fact, simply the Arabic word for "God", used by Christian and Muslim Arabs alike, it has come to be associated exclusively in many people's minds with Islam. This, in turn, serves to reinforce the inaccurate, divisive and singularly unhelpful notion that while Christians and Jews worship one deity (i.e., God, Yahweh, etc.), Muslims worship another (i.e., Allāh). Despite admitted differences =

These words from the Qur'an allow us to see how God has grouped men and women together as accountable for the fulfillment of a common set of duties, which include the entire spectrum of responsibilities that God has laid down for His servants without any distinction between male and female.

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Hence, the source of the duties which God has assigned to the woman is her status as God's servant, while the source of the rights which God has granted her through the Islamic religion and law is her humanity. Moreover, just as men's equality with women as servants of God requires that they enjoy equal standing in the duties they are assigned, their equality as human beings requires that they enjoy equal standing in the rights they enjoy as well.

= among the three monotheistic faiths in regard to specific conceptions relating to our Divine Source, we live in a time when, more than ever before, we would be well advised not to focus on such differences -- which, after all, reflect the human, fallible face of religion -- but rather on our numerous, fundamental commonalities, commonalities which reflect the divine, infallible Origin with Whom we all strive to be reconciled [t.n.].

As we have said, if you see a difference arise between the man and the woman with respect to this or that right which God has laid down for His servants, this is not due to their being "male" or "female" as such, but rather, to specific circumstances which might affect the man on one occasion, and the woman on another, granting, of course, that certain circumstances tend to be associated with one gender more than with the other due in large part to societal conditions and causes.

These points will become clear in increasing detail in the chapters to come, God willing.

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The source of women's duties and rights in the reality of Western societies

Once again allow me to draw attention to the fact that we should not be duped by the West's moving slogans about "freedom", "democracy" and "human rights", allowing them to obscure the painful reality which is a far cry from the meanings conveyed by such expressions, and on the basis of which the West deals with the weak and oppressed peoples of the world.

If we allow our vision and understanding to be limited by the illusions which these slogans generate, we will believe that the woman in the West is seated on a throne of honor, floating in a shoreless sea of freedom and enjoying her rights to the full with nothing to disturb her bliss! The fact of the matter, however, is that the Western woman suffers from a reality that stands in stark contradiction to the types of catchwords that we hear coming out of the West. Anyone who engages in a bit of research into the true nature of Western life is bound to note this contradiction, since the Western woman has fallen victim to a tyranny which is embodied in the Western system itself, not that which is conveyed by mere words and slogans.

With this vision as our point of reference, we ask: What is the source of the duties assigned to the Western woman today? The answer which is suggested by the reality observed in Western societies is that the source of these duties is the authority of material interests. It goes without saying, of course, that many of the tasks assigned to and performed by the Western woman with this material incentive are in harmony with humanitarian principles and Islamic values, since the material element in our lives is, in fact, one of the most significant, vital underpinnings of the human society which Islam came to establish and preserve. Moreover, the woman's participation together with the man in the building of a prosperous human society is an undeniable necessity. However, whereas the West tends to give little weight to anything but material considerations in the context of establishing and sustaining society, we find that Islamic principles and religious values tend to view the material factor as just one among many, classifying material considerations among other factors in accordance with a well-defined scale of priorities.

The Western view of material reality and the central place which this reality is accorded in the establishment of an ideal social life have caused the loss of many rights in the West in the course of its struggle to support what it considers to be the most important of all duties [that is, the duty to amass wealth]. This, in turn, has mired Western society in a variety of abusive practices, the brunt of which has been borne by women. We find, for example, that under the force of this materialistic thrust, the woman is often shouldered with the burden of supporting herself financially, whether she is a girl still living with her parents or a married woman sharing a household with her husband, as long as she is capable of knocking on a door here or there and getting herself a paying job!

The veneration of material wealth and the view of money as being the sole underpinning required for the establishment of a prosperous human society has become a virtual certainty in the minds of most members of Western society. This certainty takes the form of the conviction that the pleasures to be enjoyed in this life are boundless, and that all of them command an exorbitant price. Hence, it is thought, everyone has to go running about breathlessly in an attempt to amass the greatest possible amount of wealth so as to be able to afford life's limitless delights. Indeed, every individual embroiled in this game of wild push-and-shove has no choice but to "look out for number one", as it were, while competing with others in the rush to acquire more. As for altruism, suffering on others' behalf, or going out of one's way to show kindness to another, there is hardly a time or place for such notions in this frenzied atmosphere.

Driven by the impetus of this restless approach to life, we find that no sooner has a young woman begun to come of age than she is obliged to go out every morning in an attempt to make a living for herself along with the other members of her family so that she, too, can afford to avail herself of the pleasures which everyone strives to grab the biggest possible share of. In this type of milieu, it would be sheer foolishness of her to expect her father to have compassion on her and spare her the necessity of going out to earn her keep at such a tender young age.

Under the influence of this same philosophy, the wife may be obliged to let go of the last thread of hope for what we might refer to as the husband's "guardianship" over her in return for the burdens of marital life which she has taken on, by going out in search of any work she can find with which to provide for herself.[1] Thus it is that "mammon", if you will, and mammon alone, is what keeps the ship of Western society afloat, and it is mammon which serves as the source of all the duties assigned to this society's members, whoever they happen to be.

What results has the West achieved through this philosophy? The first result is that it has moved toward the destruction of the family and its components. As is well-known, the fabric of any society is composed of the warp and woof of the family, while the family, in turn, depends for its existence on the solidarity that binds its members together, that is, the husband's responsibility for the wife and the parents' mutual responsibility for their children. And it is this which the materialistic Western philosophy threatens to destroy when it sets up each individual as an "island", as it were, responsible only for himself or herself.

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[1] Since no society is a monolith, it goes without saying that many, if not all, husbands in the West do contribute toward their wives' financial support. Over the past few generations, however, growing economic pressures have made it necessary for more women in the West to work outside the home (in my mother's generation, women rarely sought employment outside the home after marrying). The same phenomenon can be observed in Middle Eastern societies as well, thus leading to a gap between actual practice and the Islamic ideal due to economic factors [t.n.].

A second result of this philosophy is that the West has threatened the woman's femininity itself by depriving her of the possibility of devoting herself full-time to caring for and raising her children. The reason I say this is that in many cases, the woman has entered the workplace not for her own fulfillment or based on her own choice, but simply for the purpose of earning a living. In this situation, she does not have the opportunity to choose the type of employment that would best suit her personal inclinations and her needs as a woman, since the issue as far as she is concerned is one of necessity rather than choice, as a result of which she must offer up her femininity and her dignity as a sacrifice, if need be, for the sake of meeting the necessities of her life. If she is fortunate enough to find comfortable, suitable work, so much the better. Otherwise, however, she must simply content herself with whatever comes along simply because there is nothing better to be had. By virtue of an unyielding verdict which has been handed down by the society in which she lives, she must hold onto whatever work she has found, training herself to endure and adjust.

Someone who pays a brief visit to this or that Western country may not have the opportunity to see anything but unstressful, "womanly" tasks and positions being filled by girls and women with what appears to be the utmost contentment. Such a visitor may form the impression that this kind of job satisfaction is typical of the situations of Western women in the work force. However, if we penetrate more deeply into Western societies, we come to realize that this type of image is nothing but a bright -- but delusive -- facade concealing an unhappiness that has begun to spread insidiously among numerous women and girls who live far removed from this glittering surface.

Deep in the heart of these societies, the distinctions between men's and women's jobs sometimes disappear out of sheer necessity. There is hardly a single tough job performed by men -- indeed, by men of the lowest social strata -- but that large numbers of women have begun crowding men out of it! I have personally observed numerous European women performing tasks so strenuous that even a man would have found them hard to endure. Moreover, the nature of these tasks has robbed these women of their femininity, turning them into little more than moving masses of mechanically performed labor. Once when I was at an airport entrance, I saw someone driving a taxi in my direction. When this person arrived at the entrance, he (she) stopped the car and got out hurriedly, went to the trunk, took out an assortment of heavy suitcases and flung them on the ground. The driver was clad in a pair of overalls, and I would have had no way of recognizing that she was, in fact, a woman if it hadn't been for her voice, which was all that remained of her womanliness and beauty. Even so, jobs such as this are mere recreation by comparison with other tasks performed by women until after midnight in metros, hospitals and other institutions, not to mention on street corners, all of which are both psychologically repugnant and physically enervating.

As for the West's having taken the woman away from her duty of caring for and raising her children, it is an obvious, natural result of the situation we have just described, and which I suspect few people are unaware of. After all, how and when will it be possible for a woman who has been shouldered with the burdens of a job as toilsome as those we have described, and which are certain to take up most of her time, to give her children the nurture and concern they require?

A further inevitable result of this state of affairs is that children are left, at best, at the mercy of nurseries and educational institutions which are expected to take mothers' places. However, no sensible person -- not to mention well-educated people and those with even a modest degree of experience and knowledge of educational psychology -- can fail to realize that no nursery, school or any other mere institution is capable of standing in for a mother in the varied tasks she performs or the instructional influences she exercises.

Nevertheless, the West, having essentially made money and material wealth into the "be all and end all" of its existence, has been bound to sacrifice anything and everything that might come in conflict with this ultimate end without perceiving that in so doing, it has rushed headlong into untold dangers which inevitably mean the erosion of its most vital, precious cultural values -- values which money and other forms of material wealth exist solely to serve and protect.

We now turn to our second question, namely: What is the source of the rights enjoyed by the woman in Western societies? The source of these rights, based on what we can gather from the reality of Western societies, is the woman's "femininity", which must be exploited to the full as an instrument of men's pleasure and happiness.

It is true, of course, that the West proclaims at every opportunity, and by all means possible, that the woman should obtain her full rights, be they social, economic or political, and that she should be on an equal footing with the man in all spheres of life. There is no doubt that this call for the woman's rights, which is heard loud and clear on all sorts of occasions and over the various types of mass media, is welcomed by women and gives them a sense of satisfaction and reassurance. However, the practices which one observes in these same societies quickly replace the woman's reassurance with disillusionment over the sincerity of these eloquent protestations of concern for her welfare, casting her into a situation in which she finds herself to be little more than a handmaid to men's caprices. After all, when she loses the capacity to provide such "service" due to advancing age, unexpected misfortune, or men's tendency to grow discontent or bored, she may be received with utter disregard. In fact, she may even be abused or cast aside altogether if she continues to stand in the man's way, as it were, hoping all the while to share with him as a partner in the enjoyment of pleasure.

The reason for this is that the man's glorification of the woman's femininity is simply a reflection of his concern for himself and his quest to feed his ego and satisfy his instincts. If women's rights are made dependent on the degree to which they exhibit "femininity", these rights may turn into little more than "bribes" or "wages" which the woman receives in return for her pleasing the man with her "femininity." It follows, of course, that when her womanliness passes away, as it were, and the sparkle of her youth begins to fade, there is no longer any basis for the wages or bribes she had been receiving; in fact, there is no longer any basis even for the dignity which she -- apparently, at least -- had once enjoyed.

Let it not be said here: But the laws that provide for women's rights in the West include no such details and restrictions! This may indeed be true. However, the reason for this is that the reality of life in the West is one thing, and the language of its laws is quite another. In fact, we cannot rule out the possibility that these written laws -- which, in their explicit and implicit import, bow to the woman -- make up part of the very "bribes" and "wages" mentioned above. Moreover, if the provisions of the West's laws are a source of contentment for women and an aid toward the fulfillment of their rights, then men's bows to women or the kisses they plant on the backs of their hands should make them even more content, and be all the more effective in confirming their sense of dignity. However, who can deny the fact that this type of treatment of the woman may simply be a way of numbing her awareness of the fact that the man's sole concern in all he might ask of her is his own ego and enjoyment?

What exactly are the painful, disturbing realities related to the Western woman that tend to be concealed behind the captivating appeal of legal texts? Let us note, to begin with, that a woman becomes associated with a man in the West in one of two ways. The first of these is through traditional marriage, with the church being the institution that generally formalizes their union, while the second involves the formation of a friendship by the mutual consent of the man and the woman. Thus far, I have not been able to obtain accurate statistics indicating how widespread each of these two customs is in Western societies, or to what degree one is more prevalent than the other. However, there are, in addition to these two customs, numerous fleeting associations between men and women which are bound by neither the constraints of marriage nor the commitments of friendship.

Be that as it may, what happens in numerous cases is that hardly has the wife or girlfriend passed out of the phase of youth into middle age -- bearing in mind that women in the West tend not to marry until rather late -- than the husband or boyfriend grows discontent and starts "looking around" in hopes of trying his luck with someone else. Moreover, the man's sense of boredom and discontent might arise even when his partner is still in the prime of her youth. It is here that the conflicts begin, with the woman attempting to the best of her ability to hold onto her husband or boyfriend while at the same time salvaging her dignity, at which point the man may resort to threats and even physical abuse, thereby leaving the woman no alternative but to flee wherever she can.

As a result of this phenomenon, the United States has recently witnessed the appearance of growing numbers of a special type of shelter which takes in women who have been able to flee from the abuse they were suffering at the hands of husbands or boyfriends. These shelters tend to be camouflaged in various ways in order to protect this large sector of afflicted women from attempts by their husbands or boyfriends to track them down and subject them to further abuse in the very place to which they have fled for refuge. This shocking development has turned into a veritable plague which has come to pervade the entire United States, and which is spreading in various European countries as well.

In an article dealing with this frightening epidemic, Richard F. Jones, a professor at the American College of Obstetrics and Gynecology, states, "There is a plague sweeping across our nation. . . . It is a heinous phenomenon which cannot be overlooked or passed over lightly. On the contrary, it must be brought to an end. It is a revolting disease which no civilized nation can tolerate."[1] Jones then goes on to note, "Every 12 seconds in the United States, a woman is subjected to this scourge. Every 12 seconds a woman is beaten, in some cases to the point of death, by a husband or lover! Every day we see the results of this abuse in our offices, our emergency rooms, and our clinics."[2]

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[1] "Domestic Violence: Let Our Voices Be Heard," **The Journal of the American College of Obstetrics and Gynecology**, January 1993.

[2] Ibid.

As for elderly women who are either spinsters or divorced, they may be obliged to spend the rest of their days in virtual isolation from the rest of society, with little to tie them to the outside world but trips here and there to buy necessities. For those who have the chance to visit either Europe or the United States, it is a common occurrence for one to observe the humiliating circumstances being endured by such ill-fated women. A woman belonging to this group might live out her days alone in a small, humble dwelling with no one to keep her company but a pet dog whose upkeep provides her with some degree of consolation and distraction. She may take the dog with her when she goes out to do her morning shopping, and on her way there or back she may sit down to rest in a park. Then, when she returns home, she comes in and locks the door behind her with several bolts in search of peace of mind and safety from harm.

If she is one of the lucky few, she will be called on from time to time by a son or daughter who has come to pay her a perfunctory visit of the sort custom requires. Then, as old age comes upon her, she may be obliged to move from her small house to a "nursing home" whose residents are awaiting -- however comfortable or pleasant the place itself might be - the hour of their departure from this world, which will arrive for each of them at its appointed time according to his or her particular circumstances, but which no one can predict but God alone. A woman in this situation can only thank the society which, rather than withholding everything from her, has received her and those like her as guests, as it were, in a comfortable "waiting room."

However, if such a woman should become ill and need hospitalization, she will either be too poor to afford medical treatment, in which case there is nothing she can do for herself but endure her malady until God takes her, or she will be sufficiently well-to-do that she can make use of her savings to pay her medical expenses. Even so, she has no choice but to pay in full for whatever hospital services she has received, in addition to whatever wages are due the nurse or other medical caregiver who must stay with her in her home to provide her with the care that, in our area of the world, would be provided by her own relatives.[1] As for her relatives and her children, if she has any, nothing is expected of them but to pay her traditional "drop-in" visits, accompanied by bouquets of pretty flowers and get-well wishes!

It is only reasonable to ask at this point: What is it that would cause Western society to do a pendulum swing from the utmost expressions of veneration for the woman when she is coquettish, young and vibrant with femininity and beauty, to the most abject forms of negligence and even banishment when she passes beyond her youth and enters upon middle age, then old age and helplessness?

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[1] There are, of course, medical insurance programs for the elderly in the US such as Medicaid and Medicare, as well as Social Security allowances depending on one's former employment history and that of one's spouse (or former spouse). However, the availability of such funds depends on specific factors which vary from one situation to another; as for private medical insurance, it represents in and of itself a major expense which many are unable to afford [t.n.].

For the answer to this question, one need only realize the fact that the shows of appreciation, respect and courtesy which women receive from men in their youth are, in fact, simply in honor of their physical beauty and womanliness. Hence, when men have satisfied their own desires through this process, when women's beauty fades and their femininity is obscured by wrinkles and graying hair, men in turn have no more desire for women, who have nothing left to offer but their "unadorned human value". However, acting on the basis of interest in women's "unadorned human value" is generally looked upon as an enterprise that isn't, one may say, cost-effective.

This, then, is the answer, and this is the philosophy that underlies the social reality of relations between men and women in the West.

As my readers may or may not know, the woman in Islamic societies commands increasing respect on the part of men as the years pass and she approaches old age. The elderly woman is the unrivaled queen of her household. She alone has the final say, and she is treated by everyone with the utmost respect, indeed, with reverence. This is because there is a sense in which the sanctity of motherhood comes into full, visible bloom, as it were, in the elderly woman, which in turn causes her to be held in awe by all members of the family.

The basis for this is that the source of the woman's rights in Islam is none other than her humanity, as we have stated before. Hence, no matter what might be said about Muslims' failure to commit themselves to the principles and teachings of Islam and to live on the basis of its precepts and morals, Islamic education nevertheless continues, by God's grace, to exercise an effective influence on our Arab Islamic societies.

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The foregoing comparison between women's rights in Islamic and Western societies will become clearer, God willing, in the chapters to follow as we discuss women's various rights and specific applications thereof in fuller detail.

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Chapter Two

Women's Position in Islam

* * *

Introduction

The dignity which Islam affords the woman is an inseparable part of the dignity which it acknowledges as the right of all human beings. As God declares, "And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what we have created, with [definite] preference" [Al-Isrā' (The Night Journey) 17:70]. After all, both the woman and the man have their origin in Adam.

Moreover, Islam affirms this dignity -- which is founded on the basis of pristine, complete humanity -- for both the man and the woman equally by hedging them about with the protective stronghold of piety and righteous action, which constitute the sole basis for distinctions among people in the sight of God. God Almighty states, "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allāh is the most righteous of you" [Al-Ḥujurāt (The Inner Apartments) 49: 13].

These two Qur'anic verses provide clear, explicit evidence that the divine revelation and religion grant honor and dignity to all humanity, both male and female, and that neither masculinity nor femininity can either add to or detract from these divine gifts. It is likewise clear that people may, in fact, differ from one another in terms of the dignity and honor with which God has blessed them; however, the basis for such disparities is the same for all people, namely, the degree to which they revere God's commands and holiness and devote themselves to righteous actions of benefit to other human beings.

This being the case, it follows that the rewards which people receive for the righteous works they perform are the same in both quality and quantity without regard for whether they are male or female. This may be seen in God's revelation, where He declares, "And their Lord responded to them, 'Never will I allow to be lost the work of [any] worker among you, whether male or female; you are of one another" [Āl 'Imrān (The House of 'Imrān) 3: 195]; "And whoever does righteous deeds, whether male or female, while being a believer -- those will enter Paradise and will not be wronged [even as much as] the speck on a date seed" [Al-Nisā' (Women) 4: 124]; and "Whoever does righteousness, whether male or female, while he is a believer -- We will surely cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do" [Al-Naḥl (The Bee) 16: 97].

This human principle, on the authority of which masculinity and femininity are brought into equality, is applied under the Islamic law in the following manner: The rulings of Islam address themselves first to individuals, assigning them duties as a means of refining and rectifying their characters, and granting them rights which serve to ensure their contentment and protection from harm. These rulings then address themselves to the family, encircling it within a framework of sanctity, strengthening the ties among its members, inculcating a sense of responsibility and nourishing the family by encouraging the mutual exchange of love and respect. Lastly, the precepts of Islam address themselves to society as a whole. On the societal level, the purpose of Islamic legal rulings is to build it out of the "bricks" of the family unit, raising its walls in the form of just government and policies, the consultative approach (shūrá) to dealing with social and political issues, and affirmation of the bond that links the ruler to his subjects. On the basis of laws and rulings whose aim is to care for the individual, the family and the society, both men's and women's rights and duties take form within the framework of Islamic law and government. At the same time, the essential unity of men's and women's rights functions as the foundation for the unity of the wider human family.

One of the most salient expressions of the divine coordination between the natures which God has implanted within us and the commands He has laid down is that He has caused both men's and women's innate dispositions (notwithstanding the various likes, dislikes, desires and aims which each individual may develop over time) to be in fundamental harmony with the content of these commands.

In this way, the Divine Mercy ensures that these commands will not be a cause of undue hardship for us; at the same time, we see the intrinsic unity of the Creator with His creation and the perfect symmetry that exists between the cosmic "receptacle" embodied in human nature and its requirements on one hand, and the "lid" to this receptacle represented by the laws and principles which God has established for His servants.

This divine "plan" requires that the man and the woman share as equal beneficiaries of fundamental human rights without distinction. The most prominent of these are the right to life, the right to freedom, the right to legal competence, and the various economic, political and social rights which follow from them. Similarly, it is necessary that the man and the woman be equal bearers of the duties and responsibilities entailed in constructing human society in accordance with Islamic law and principles, including the reform of the individual, then the family, then the society at large. In other words, men and women exert efforts of equal seriousness and importance for the sake of establishing and preserving a dignified human existence.

With these thoughts in mind, let us proceed to a more detailed discussion of women's position in Islam through a treatment of the above-mentioned rights and the manner in which Islam upholds them as manifestations of the dignity which God has granted in equal measure to both men and women.

Women and the right to life

There can be no doubt that the right to life is the most sacred of all the rights God has granted us, since it constitutes the basis without which no other rights could exist or be of any effect. Perhaps the Qur'anic text which most clearly highlights the sacredness of this particular right is the following: "Because of this, We decreed upon the children of Israel that whoever kills a soul unless for a soul or for corruption done in the land -- it is as if he had slain mankind entirely" [Al-Mā'idah (The Repast) 5: 32]. When reading this declaration, one notes that the word used to refer to an individual human life is "soul" (*nafs*), which eliminates any distinction between masculinity and femininity and makes clear that the sacredness of this right as revealed in the divine revelation is inclusive of both genders.

This inclusiveness is also apparent in the words spoken by the Prophet (pbuh) on the day when the Battle of Ḥunayn was fought. Seeing a slain polytheist woman with people gathered about her, he (pbuh) said, "This woman was not fighting in the battle, so why was she killed?" He then said to a man [nearby], "Go to Khālid Ibn al-Walīd and tell him, 'The Messenger of God commands you not to slay women or [even] a despised hireling.'"[1] What is worthy of note here is that neither her being a polytheist nor her being a woman detracted in the least from the sanctity of her life.

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[1] This is the wording of the account narrated by Ibn Mājah. It is also included by Abū Dāwūd based on the tradition attributed to Rabāh =

In view of this equality between men and women with respect to the sanctity of their lives, the law of equal retribution (*qiṣāṣ*) applies in relation to murders committed against both men and women alike. One of the most explicit Qur'anic texts in this regard is as follows: "And We ordered for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and for wounds, legal retribution. But whoever gives up his right as charity, it is an expiation for him. And whoever does not judge by what Allāh has revealed, then it is those who are the wrongdoers" [Al-Mā'idah (The Repast) 5: 45]. In his commentary on this passage, Ibn Kathīr writes, "The imams of all four schools of Islamic law interpret these words to mean that a man may be put to death in retribution for the murder of a woman. The same holds true for the tradition narrated by al-Nasā'ī and others according to which the Messenger of God (pbuh)

= Ibn Rabī'ah al-Tamīmī, the brother of Ḥanẓalah the writer; the latter version includes the words, ". . . and Khālid Ibn al-Walīd was leading the army." Al-Bukhārī and Muslim both include a tradition which conveys essentially the same meaning based on an account handed down from Abdullāh Ibn 'Umar Ibn al-Khaṭṭāb dealing with the theme of jihād in the section on "Killing Women in Warfare." As for the tradition which includes the words, "Set forth in the name of God, but do not kill the old and feeble, small children or women, and do not go to excess. . . .", it has a weak chain of transmission due to the fact that one of the narrators in this chain is Khālid al-Fizr whose reliability was called into question by Yaḥyá Ibn Ma'īn. See al-Zayla'ī, **Naṣb al-Rāyah**, 3/386.

stated in his instructional letter to 'Amr Ibn Ḥazm[1] that 'A man may be put to death for the murder of a woman', while according to another tradition he stated, 'The blood of every Muslim is equal in value to that of every other.'"[2]

Some people may find it problematic that when the penalty for murder -- which involves the infliction of a punishment commensurate with the crime (*qiṣāṣ),* that is, the execution of the murderer -- is reduced from execution to the payment of blood money due to a pardon [on the part of the victim's family] or because the murder was accidental, the equality between men and women ceases to apply in that the blood money for the murder of a woman is half that for the murder of a man. However, it must be borne in mind that the payment of blood money in this case is not a punishment which reflects the human value of the person who was killed; rather, it is a legal settlement the aim of which is simply to compensate the family for whatever material loss they have suffered, or will suffer, due to the death of one of its members. Consequently, the ruling relating to blood money has to do with the manner in which the law addresses those charged with financial responsibility for others, and those who are not. This being the case, the financial compensation involved must be based on an estimation of the amount of material loss resulting from the death of the person lost by the family. Moreover, there can be no doubt that children's loss of the father who was their breadwinner will be greater, materially speaking, than the loss of their mother would have been. Similarly, the financial hardship suffered by a woman whose husband has been killed will tend to be greater than that of a man whose wife has been killed.

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[1] 'Amr Ibn Ḥazm, a Companion of the Prophet (pbuh), was appointed by the latter as governor over the region of Najrān in the south of the Arabian Peninsula, at which time he received a lengthy letter of appointment from the Prophet (pbuh) containing various instructions and legal rulings [t.n.].

[2] **Tafsīr Ibn Kathīr** (also referred to as **Tafsīr al-Qur'ān al-'Aẓīm** by Ibn Kathīr), 2/61-62. Someone might object here, saying, "But these verses are talking about what was legitimate in the Torah [and not in later times]!" In reply to this concern, let us note that if we hold, on one hand, that the laws which applied to those who preceded Islam are likewise applicable to Muslims so long as the teachings of Islam contain nothing that specifically opposes the earlier laws, then no problem is presented by this passage. If, on the other hand, we hold that the laws which applied to those who preceded Islam do not apply to us unless the teachings of Islam explicitly uphold the previous laws, we find such explicit support in the divine declaration which immediately follows this passage, namely: "And We have revealed to you, O Muḥammad, the Book [i.e., the Qur'ān] in truth, confirming that which preceded it of the Scripture and as a criterion over it. So judge between them by what Allāh has revealed...." [Al-Mā'idah (The Repast) 5: 48].

The human value of the person who has been killed is the same in all of these situations; hence, if the murder was intentional, the punishment required by the principle of commensurability (qiṣāṣ) is execution regardless of whether the victim was a woman or a man. However, if the victim's family waive their right to the enforcement of the death penalty, or if the murder was accidental, this penalty ceases to apply and is replaced with the payment of blood money in order to achieve a legal settlement in the wake of the family's loss of the person who was providing them with financial support. Moreover, as we have explained, such settlements are subject to variation.[1] As Dr. Muṣṭafá al-Sibā'ī, may he rest in peace, explains in his book, Al-Mar'ah Bayna al-Fiqh wa-al-Qānūn *(Women Between Islamic Jurisprudence and Positive Law)*:

> Our current laws set a minimum and a maximum for the amount which must be paid in the form of blood money. This being the case, the judge may use his own discretion in setting the amount to be paid, provided that it is neither less than the minimum nor more than the maximum set by law. The purpose for this is to allow for the assessment of the material loss which has been suffered by the victim's family. Such loss will vary even among the families of different individuals who were gainfully employed; how much more, then, might one expect there to be variation between someone who was employed and providing support for his family, and someone who was not employed or responsible for supporting others, and who, in fact, was being supported by someone else?[2]

As we have seen, the right to life, which is shared equally by men and women, has its origin in the common denominator that joins the two genders, namely, their humanness which is, in turn, the source of all other rights as well. My readers may or may not be aware of the fact that in the 6th Century AD, as Islam was declaring the axiomatic truth that men and women are equally "human" in all senses, a conference was being convened in France for the purpose of determining whether women were to be classified as human beings or not!

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[1] See **Ḥujjat Allāh al-Bālighah** by al-Dahlawī, 2/113.

[2] **Al-Mar'ah Bayna al-Fiqh wa-al-Qānūn**, p. 39.

After God had revealed the Qur'anic prohibition against the practice of burying female infants alive -- a practice which was prevalent in pre-Islamic times among some of the tribes of the Arabian Peninsula -- in the words, "...and when the girl-child that was buried alive is made to ask for what crime she had been slain" [Al-Takwīr (Shrouding in Darkness) 81: 8-9], the Romans were engrossed during the Middle Ages in inventing every imaginable means of torturing women to death for crimes they had not committed. Such methods of torture included pouring tar over their bodies, tying a woman's limbs to different horses, then allowing the animals to run in different directions until she was torn limb from limb, and tying a group of women to a post, then lighting a slow fire beneath them and letting it burn for days as their flesh roasted and fell off.

Anyone who stops to ponder such realities can only be appalled at this seemingly inexplicable transformation which took place in Roman society. After all, at the time when Roman civilization was at the height of its advancement and prosperity, women moved about with the greatest of ease, enjoying a significant degree of freedom, authority, and even a type of superiority over men, who vied to please women and win their favor. However, we find them during a later period having become the object of the most blood-curdling horrors! What do you suppose happened to the freedom they had once known? What caused women to be branded as captives and slaves with such reprehensible barbarity?

In his entry on "Women" in Dā'irat Ma'ārif al-Qarn al-'Ishrīn *(The Encyclopedia of the 20th Century)*, Farīd Wajdī presents a picture of the life of licentiousness and opulence that women under Roman rule enjoyed for a period of time, then goes on to describe the reverse scenario which followed this. In answer to the question of how this change could have come about, Wajdī states:

> When the Romans' rule had spread and they had come to enjoy the double status of renown and unrivaled superiority over other nations, they developed a taste for luxury and ease, neither of which is attained without the mixing of the sexes. Being further encouraged along this path by the influence of the teachings of Greek atheists and their Roman imitators, they began allowing their women to appear more freely in public, and as affairs developed in this direction, Roman women came to exercise authority in political affairs. Not only so, but the mixing of the sexes led to practices so gross that I abhor the thought of recording them. Be that as it may, men's ambition waned, their resolve grew lax, and the state of their souls went from bad to worse as they descended to the level of contentiousness and internecine fighting. As corruption spread among them, it led to events which altered the society's thoughts about women such that women came to be viewed as the cause of all depravity. This engendered a

growing sense of hatred toward women, which led to the imposition of increasingly severe restrictions upon them until they reached the state of affairs that reigned in the Middle Ages, and which continued up to and beyond the 17th Century....

Hence, the unfortunate woman was a mere plaything in men's hands. If the man was possessed of some piety, he would keep the woman confined; however, if he developed a love for amusement and luxury, he would let her out of her confinement so as to play on her weakness. Then, if he managed to entice her and corrupt her with the various sorts of indulgence and adornment he had devised, he would begin to look upon her as a burden and force her back into confinement under even harsher conditions than she had endured before.[1]

What I wish to propose here is that the events which are taking place today in the West -- which, in essence, is the "foster son" of Roman civilization -- are a restaging of the same play, as it were. The first act of this age-old play is drawing to a close, while the portents of the second, more tragic, act are becoming visible to everyone who has eyes to see and who cares about the sequence of such interconnected events and the various psychological and social factors which lie behind them.

After all, the contempt for women's right to life which manifested itself in Roman society was not restricted to

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[1] Farīd Wajdī, **Dā'irat Ma'ārif al-Qarn al-'Ishrīn** ("The Encyclopedia of the 20th Century"), 8/622-623.

Roman society alone. Rather, this same attitude prevailed in other societies as well. For example, the law of Manu in India recognized no rights for the woman independent of her father, her husband or -- in the event that her father and husband were no longer alive -- her sons.[1] Moreover, if she had neither father, husband, nor son present with her, she had to remain under the guardianship of some relative of her husband's, and she was given no freedom to dispose of her own affairs under any circumstances whatsoever. However, even crueler than the denial of her right to engage in mundane transactions was the denial of her right to life independent of that of her husband, since she was literally doomed to die with him, that is, by being burned to death by the same flames in which her husband was being cremated. This ancient custom continued to be practiced from the earliest eras of Brahman civilization until the 19th Century AD.[2]

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[1] The Law of Manu, IV-3 reads, "Her father protects her in childhood, her husband protects her in youth, and her sons protect her in old age; a woman is never fit for independence." [t.n.]

[2] What is being referred to here is the custom known as "suttee" (or "sati"), i.e., the practice of encouraging and often forcing widows to burn themselves alive on their husbands' funeral pyres. This practice was outlawed by the British in 1829, not long after the great Indian reformer, Raja Ram Mohan Roy, waged a campaign against it. The argument in favor of "sati" was based on the fact that, since the precepts of the Shastras (the Hindu code of conduct) forbid a widow to remarry, she might as well despair of her earthly existence and commit "concremation" as the practice was sometimes referred to. Women were viewed as unworthy of trust, subject to passions, and devoid of virtuous knowledge; hence, it was claimed that if allowed to outlive her husband, a woman might commit acts which would bring disgrace upon her or her husband's relatives and that if, conversely, she =

The famous Babylonian Code of Hammurabi classified the woman as a type of livestock; hence, the woman under this code had no value to speak of, whether with respect to the right to life or any other right as evidenced by the fact that women were often put to death as a ransom for crimes which had been committed by someone else.

In Greece, women passed through various phases in relation to the rights they enjoyed and the treatment they received. However, during most of these phases, women were deprived of any sort of freedom or status, and the laws of Greece hardly protected them from any type of danger that might threaten their dignity or even their lives. The denial of human rights as a whole in Greece reached the apex of barbarity in the system of slavery in Sparta, where fathers would kill seven out of every ten daughters born to them, a fact which indicates strongly that the ill effects of this system were suffered first and foremost by the woman.

In sum, then, it may be said that women in ancient civilizations received a measure of concern in the phase of prosperity and ease which most major civilizations reach at some point. However, they did not receive positive attention

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= committed "concremation", she would be rewarded with heavenly delights with her deceased husband and bring honor and esteem on everyone associated with her. However, it happened in many cases that if the reluctant wife did not engage in "concremation" voluntarily, she would literally be tied down onto her husband's funeral pyre. Even now, the situation of widows in India is exceedingly difficult, and although officially against the law, occasional instances of "sati" still occur in the country (see Reading About the World, edited by Paul Brians, et. al., Harcourt Brace Custom Books) [t.n.].

during such phases out of appreciation for their worth, but rather, because during these times of pr and ease, women were sought out as a means of pleas social status for men. Consequently, it was not long men would go back to seeing the woman as a source fortune in times of adversity and cultural decline. Hen neither situation was she being honored for herself alone.

This, then, is the difference between Islam and o civilizations of the world with respect to their view of woman's place. Islam, on one hand, has honored the wom in her capacity as a human being who has been endowed God with all of the noble, even sacred qualities enjoyed b the man. Hence, the honor which the woman receives shoul not be affected by cultural advance or decline. As for the other cultures from which we have drawn examples, they have consistently tended to view the woman as little more than a rich "material" to provide for men's indulgence and comfort and a necessary display of the culture's "glitter", momentary as it may be. However, if the culture's fortunes take a turn for the worse for whatever reason, thereby preventing men from enjoying the luxury to which they've grown accustomed, we find that the woman is no longer looked upon as the rich "material" which they were so anxious to obtain; rather, she quickly comes to be perceived as just one more cumbrous burden the man has to bear.

The supreme value of the sanctity, importance, and seriousness with which Islam has imbued the woman's right to life may be seen through the various other human rights to which this initial right -- that is, the right to life -- has given rise. These other rights include the right to legal competence, or what may be termed civil rights, freedom in its various expressions, and the social position which the woman should occupy. In fact, while these rights are properly considered to be offshoots of the right to life, they are, at the same time, vital for the preservation and protection of the right to life itself. After all, any laxness in our protection of the woman's rights to legal competence and freedom in the various spheres of human existence will, over time, endanger her right to life as well.

In what follows, we shall continue our discussion of these subsidiary rights and Islam's position with respect to them.

* * *

Women and the right to legal competence

What I mean by the phrase "legal competence" here is, in essence, civil rights, such as the right to own and dispose of property, conclude contracts, form associations, and so on.

In the case of ancient civilizations, they appear not to have recognized any sort of legal competence for women; hence, women were denied civil rights as a matter of course. Moreover, if such nations considered the man to be the "proprietor" of the woman's person, and if it was possible for the man to do whatever he wished with the woman, then it would be only natural for them to believe that the slave, or the enslaved person, was the man's rightful possession.

The people of Brahman India, China, the Germanic peoples and the barbarians of Europe allowed the woman neither to own property nor to inherit, while ancient Greece followed essentially the same pattern, not allowing its girls to inherit from their parents unless they had no brothers. As for the Roman law, we have seen that it occasioned different types of treatment of women from one era to another. Not only so, but this demeaning view of the woman has continued to prevail in numerous societies and cultures until very recent times.

In his book entitled Al-Mar'ah fī-al-Islām wa fī-al-Ḥaḍārah al-Gharbīyah (Women in Islam and in Western Civilization), Jamīl Bayham states:

Modern civilization held for a long time to the custom of allowing the man to take possession of his wife's money and to control how it was put to use, and to prevent her from disposing of it herself or concluding any sort of financial agreement without his permission. In fact, women enjoyed less legal competence after marriage than they did when they were still single. The law of France -- which many would consider to be the "mother" of civilization -- ruled that the man not only possessed the right to handle all property owned jointly by him and his wife, but that he held guardianship over his wife's private real estate as well. A wife was not allowed to give wealth away, sell, mortgage [real estate], deposit property as security, purchase, or accept a gift without her husband's written permission. Even in the event of her husband's absence, a wife was not allowed to sell so much as a small portion of their joint property, nor even to dispose of her own wealth without his approval. In addition, whereas the wife was not permitted to accept any sort of gift without her husband's consent, the husband had the right to give away any of their jointly owned household effects, as well as movable property that belonged solely to her. In the main, the law of France in effect today requires the wife to obey her husband, to live with him wherever he wishes and to obtain his permission for anything she wishes to do, even if it involves something like attending a court session. Only in the event that she herself has been accused of some crime or violation would it be permissible for her to respond to a summons to appear in court without her husband's permission.[1]

As for Islam, which is an extension of previous divinely revealed messages, it came in confirmation of the woman's independence from her husband in her various civil rights, declaring her full freedom to dispose of her own wealth without anyone acting as her guardian provided that she is of legal age and that her legal competence has not been revoked or restricted for some particular reason [such as insanity, for example]. In fact, Islam declared the woman's right to exercise other civil freedoms as well, such as that of taking someone under her protection, underwriting a debt, etc.

God Almighty declares the independence of both the man and the woman with respect to such rights, saying, "And do not wish for that by which Allāh has made some of you exceed others. For men is a share of what they have earned, and for women is a share of what they have earned. And ask Allāh of His bounty. Indeed, Allāh is ever, of all things, Knowing" [Al-Nisā' (Women) 4: 30]. The irrevocability of the woman's right to inherit is also stated in the divine revelation in the words, "For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share" [Al-Nisā' (Women) 4: 7]. In addition,

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[1] **Al-Mar'ah fī-al-Islām wa fī-al-Hadārat al-Gharbiyah**, pp. 71-72, Dār al-Talī'ah, Beirut. It should be noted here that this book was published in 1921, and that following this, France altered its laws such that the woman obtained the right to full ownership and other civil rights for the first time in 1938.

God established the dowry as a gift for the woman upon marriage in response to her innate desire to own property and in compensation for work opportunities she may have missed, given the fact that such opportunities are often easier for men to avail themselves of than they are for women. God declares, "And give the women [upon marriage] their [bridal] gifts graciously" [Al-Nisā' (Women) 4: 4]. In addition, God forbids the man, be he a father, paternal uncle, grandfather, brother or anyone else, to make use of any portion of a woman's dowry for himself. The only exception to this is a situation in which the woman chooses willingly to allow someone to enjoy part of her dowry. After the above Qur'anic statement we read, "But if they give up willingly to you anything of it, then take it in satisfaction and ease " [Al-Nisā' (Women) 4: 4].

As a means of providing additional guarantees of the woman's right, the divine Lawgiver warned against the practice -- which was common among men in pre-Islamic times -- of exploiting their capacity as guardians over a girl or woman whose father or husband had died by exercising control over her fate without taking her wishes into account. They might, in some cases, even prevent such a girl or woman from marrying at all in order to benefit themselves from her God-given financial rights. God declares, "O you who believe, it is not lawful for you to inherit women by compulsion" [Al-Nisā' (Women) 4: 19]. Immediately following this, God warns against a similar situation, namely, one in which a man who has a wife whose company he dislikes and to whom he would be obliged to pay a compensatory dowry in the event that he divorced her; in such a situation, the man may mistreat his wife in the hope of driving her to demand a divorce and be willing to waive the financial compensation to which she has a right in return for being released from his abuse and insults. God declares, "And do not make difficulties for them in order to take back part of what you gave them unless they commit a clear immorality [i.e., adultery]. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allāh makes therein much good" [Al-Nisā' (Women) 4: 19].[1]

The divine revelation then reaffirms this right of the woman's even further, warning against any violation of this right or any deceitful attempt to deprive the woman thereof. We read, "But if you want to replace one wife with another and you have given one of them a great amount [in gifts], do not take back any of it. Would you take it in injustice and manifest sin? And how could you take it while you have gone in unto each other and they have taken from you a solemn covenant?" [Al-Nisā' (Women) 4: 20-21] As most will be aware, one of the most fundamental components of ownership is the establishment of the right to dispose of that which is owned, providing, of course, that there is no cause for such a right to be revoked or restricted (such causes being the same for both men and women). Books on Islamic jurisprudence regularly devote long sections to rulings relating to everyday social transactions, with detailed explanations of both men's and women's property disposal rights.

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[1] For details concerning the circumstances which occasioned the revelation of this verse, see Ibn Kathīr's commentary on the Qur'ān, **Tafsīr Ibn Kathīr**, 1/465.

Another manifestation of the woman's independence from the man in the civil rights which she enjoys is her God-given freedom of choice with respect to whom she will marry. In other words, provided that the young woman is of legal age, her guardian must consult her and ask her opinion concerning any man who asks for her hand in marriage, the only stipulation being that the suitor be competent to fulfill the role of a responsible husband. This is the view held by the Malikites, the Hanafites, and the Hadawites,[1] as well as a majority of the Muslim jurisprudents who were among the Prophet's Companions and their successors.[2] The Qur'anic evidence for this view may be found in the words, "And when you divorce women and they have fulfilled their term,[3] do not prevent them from remarrying their [former] husbands if they [i.e., all parties] agree among themselves on a reasonable basis" [Al-Baqarah (The Cow) 2: 232]. As for evidence derived from the Sunnah, that is, the words and actions of the Prophet (pbuh), we have the account narrated by Aḥmad Ibn Ḥanbal, Abū Dāwūd and Ibn Mājah based on the following tradition passed down by ʻAbdullāh Ibn ʻAbbās: "A previously unmarried servant girl once came to the Prophet (pbuh) and told him that her father had given her in marriage against her will. In response, the Prophet (pbuh) gave her the choice of either agreeing to the marriage or refusing it."[1] A tradition with a similar import is narrated by al-Nasā'ī on the authority of ʻĀ'ishah, according to which a young woman came to see her and said, "My father has married me against my will to his nephew [that is, her paternal cousin] so as to improve his social standing." ʻĀ'ishah told the girl to sit down and wait until the Messenger of God (pbuh) had returned. When he (pbuh) came home, ʻĀ'ishah informed him of what the girl had said, so he (pbuh) sent word to the girl's father that the decision concerning marriage to her cousin should be left up to her. In response, the girl said, "O Messenger of God, I have consented to my father's decision. However, I wanted you to let it be known to women that this type of decision is not up to their fathers."

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[1] The Hadawites represent a school of thought connected with the Zaydites, whose thought originated with Zayd Ibn 'Alī Ibn Abī Ṭālib [t.n.].

[2] See al-Marghīnānī, Al-Hidāyah, 1/145, al-Dardīr, Al-Sharḥ al-Ṣaghīr, 3/353, and al-San'ānī, Ṣubul al-Salām, 3/187.

[3] That is, the obligatory waiting period of three months following divorce before a woman may remarry [t.n.].

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[1] This tradition has been classified by some as incompletely transmitted, i.e., one which originates with someone in the second generation after the Prophet (pbuh); however, others note that it was narrated by Ayyūb Ibn Suwayd on the authority of al-Thawrī on the authority of Ayyūb with an uninterrupted chain of transmission; it was also narrated by Maʻmar Ibn Sulaymān al-Raqī on the authority of Zayd Ibn Hibbān on the authority of Ayyūb with an uninterrupted chain of transmission. If there is a difference of opinion over whether a given tradition has been completely or incompletely transmitted, the ruling should favor the former view, i.e., that it is has a complete chain of transmission. See Naṣb al-Rāyah, 3/190.

Given that the ownership of property is a right which belongs to the woman just as it does to the man, it follows that there is no distinction between the sources from which the man and the woman derive their property. These sources are as follows: The legitimate acquisition of wealth, financial contracts, reproduction on the part of what is owned [for example, the birth of offspring to one's camels, livestock, etc.], inheritance, gifts, and charity received.

A further outcome of this shared right is that the man and the woman are to be compensated equally for performing the same task; this is because the meriting of reward, as it were, is the result of a contract according to which remuneration is conditional on the performance of a specific job. Moreover, a well-known ruling of Islamic law is that wages are to be dependent on the work done and its quality, not on the gender of the person who performs it. Hence, when an employer commits himself to the payment of a certain wage to someone who accomplishes the task required, the person who accomplishes this task to completion deserves to be paid the agreed-upon wage in full regardless of his or her gender. The only exception to this rule is contracts which are concluded between two parties based on their mutual agreement.

Another thing of which my readers may not be aware is that Islamic law includes provisions for what is known as the right to conclude a "covenant of protection." This right was described by the Messenger of God (pbuh) when he stated, "The right to grant protection which God provides is the same for all, from the weakest to the most powerful, and the believers are helpers and protectors to one another."[1] What this means is that the covenant of protection which God makes with His servants and which, by extension, He gives them the right to make with others as a commitment to protect, sponsor and aid someone else, applies equally to every one of us regardless of our gender. If any of us takes someone else under his or her protection, no one else has the right to violate this covenant unless the person being protected has been convicted by a court of law in accordance with which he or she must submit to the legally prescribed punishment for a crime committed, or unless he or she is an enemy combatant; only in these two cases is such a covenant of protection not binding.

The woman, then, enjoys the right to extend such protection to someone else just as the man does, and no one -- be he a ruler, a judge, or anyone else -- has the right to violate this covenant of protection. Provided that the person being protected is not an enemy combatant, the only situation in which such a covenant need not be respected is one in which the person being protected has been convicted of a crime and must submit to the punishment prescribed by law. The application of this ruling is illustrated in the following incident: Umm Hāni', the half-sister of 'Alī Ibn Abī Ṭālib, once came to the Messenger of God (pbuh) and told him that she had placed a certain man of the polytheists under her protection, and that her half-brother, 'Alī Ibn Abī Ṭālib, may God be pleased with both of them, had declared that he would kill this same man. In response, the Prophet (pbuh) replied, "Umm Hāni', whoever you have placed under your protection, we will protect as well."[1]

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[1] This statement is one of the provisions of a document which was drawn up by the Messenger of God (pbuh) after his emigration from Mecca to Medina as a means of regulating relations among the Muslims, and between Muslims and Jews. It is recorded by Imam Ahmad in his **Musnad**; it is also narrated by Ibn Sayyid al-Nās on the authority of Ibn Khaythamah based on a different chain of transmission, and by Ibn Isḥāq with no chain of narrators mentioned. See my book entitled, **Fiqh al-Sīrah al-Nabawiyah** ("The Jurisprudence of the Prophetic Biography"), p. 222, 10th printing, Dār al-Fikr.

Rather than tracing the particulars of the various rights which emanate from the fundamental right to legal competence which God has granted the woman, it will suffice us here to ponder the following Qur'anic verse, which in a few short lines gathers up all such scattered particulars into a single declaration: "The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong, establish prayer, give zakāh and obey Allāh and His Messenger. Those - Allāh will have mercy upon them. Indeed, Allāh is Exalted in might and Wise" [Al-Tawbah (Repentance) 9: 71]. This verse establishes what is termed the "joint guardianship" shared by men and women in all affairs of life, which can only take effect if both of them share fully in the right to legal competence.

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[1] This is an agreed-upon tradition.

However much you may reflect on man-made laws and systems, both ancient and modern, nowhere will you find the equivalent to this Qur'anic principle of joint guardianship between the man and the woman, which serves as the basis for all the specific civil rights enjoyed by both genders alike. Moreover, Islam established this right for the woman -- with all of its consequences and requirements -- from its very inception. After all, the Qur'an is the source of this right for both the man and the woman, just as it is the fountainhead of all Islamic principles and precepts. Hence, contrary to the claims of some who make a pastime of inventing falsehoods about Islam and lying to those Muslims who seek to make known the facts about Islam and to reveal the distinction between its genuine teachings and the foreign elements which have been imposed from outside, these applications of the woman's right to legal competence as established by Islamic law are not a "modernization" or a "development" which I myself have introduced into the laws of Islam.[1]

Whatever we write in the following chapters will have this very aim, i.e., that of clarifying the content of the Islamic law which has been firmly fixed from the day it was revealed by God Almighty. Far be it from us to engage in what is termed "modernization" and "development", which are, in essence, nothing but euphemisms for manipulation and artifice. We know our religion to be above such practices, and we urge those who engage in them to desist from such folly.

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[1] See, for example, the chapter entitled, "The Islamic Modernization Movement of the Late 19th Century and the Feminist Question" in the book, **The Arab Woman and the Modern Era** by Marxist author Luisa Shaidoulina, translated by Shawkat Yūsuf.

This, then, is what the Islamic law affirms within the sphere of women's civil rights, together with the practical outcomes which such rights entail. One might ask, then, whether the West acknowledges such rights for the woman in the area of actual practice. The fact is that despite the provisions contained in the files of the United Nations, the treatment which the woman receives in the West has often indicated the very opposite of what is recorded and preserved in UN archives. For example, the Western woman had, until relatively recently, not been given the financial compensation which she merits for performing the same tasks that men perform, and which she may in some cases perform with even greater skill and precision than her male counterparts. This has been the case despite the urgent, repeated demands women in the West have made for such compensation, demands which in many cases have gone unheeded. Speaking earlier in this century, Dr. Charles L. Veeds,[1] professor and director of the American Institute of Islamic Studies, observed,

Many men acknowledge the woman's ability to perform the same tasks as a man. However, they reject the suggestion that the woman should receive the same compensation as the man for the same work. This contradictory belief in equal competence and unequal compensation is still prevalent in most Western countries, including the United States. Moreover, this belief has led to a great deal of resentment.[1]

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[1] I have not been able to confirm the original spelling of this name [t.n.].

Nor does the Western woman enjoy any right which would ensure her dignity within the framework of marriage and protect her from being lorded over or even enslaved. French authoress France Querilly(2) states, "The Western woman lacks the right to professional equality, as well as the right to dignity within the sphere of marriage." In clarification of her point, she goes on to say, "Despite the equality which exists between a man's and a woman's credentials, the woman inevitably finds herself holding positions which are more monotonous than those held by men, with less authority and lower pay. This 'violence' is justified by the claim that because the woman must [also] attend to her domestic responsibilities, she is thereby rendered less capable than the man of performing the tasks associated with her profession...."[3]

Going on to speak about the tragedy of Western women's loss of the right to marital, or domestic, dignity, as she refers to it, Quiri asks, "Why is it that so many husbands and wives so quickly fall out of love, as it were? The reason is that their relationships are restricted to a dynamic of dominant and dominated. The man commands, and the woman obeys. However, there is nothing more destructive than unyielding authority. What we generally see is that this free creature (the woman) is transmuted into a slave, her function turns into subjugation, while spontaneity turns to depression and despair...." The author then asks: "With whom does the blame lie?" In response, she states, "We look forward to seeing another face of our culture which is more compassionate toward the woman and more concerned about her rights. Thus far, the personal gains which the woman has achieved have not led her to a haven of contentment. Rather, until there is a reexamination of our way of life and our civilization -- which has to come about sooner or later -- the woman will continue to be oppressed."[1]

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[1] An extract from a lecture entitled, "The Beneficial Role of the Woman in Society Today, delivered as part of the Eleventh Conference on Islamic Thought" convened in Wargla, Algeria in February, 1977.

[2] I have not been able to confirm the spelling of this name [t.n.].

[3] From a lecture entitled, "What Do Women Want, Then?" delivered at the conference mentioned in the previous footnote.

Whoever she happens to be, the Western woman could be in danger of falling into one of the "white slave trade" rings which have come to fill the length and breadth of European cities. What happens is that the woman or girl is led on by means of enticements such as various sorts of tempting business deals with generous wages. However, no sooner has she been lured out of her nest, as it were, surrendering in blind trust to such "businessmen" and full of enthusiasm over the monetary dream she is about to fulfill than the trap snaps shut. At this point, she is stripped of all identity papers and is sold to "sex merchants" on the white slave market. Then, with all contact cut off from her homeland and family, she is transformed overnight into a captive who is forced to provide sexual services under appalling sorts of pressure, threats, beatings, or whatever it takes to secure her compliance. One particular white slave trade network which was operating between the years 1985 and 1991 between Holland, Belgium and Germany managed to ensnare 3,000 women from Latin America and Asia, where they were stripped of their passports and sold to "companies" which, now free to treat them as mere chattels, forced them to engage in prostitution.

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[1] Ibid.

According to estimates offered by the Conference of Women's Organizations held in 1991, there are approximately 30 million women worldwide who have been sold in this manner and subjected to slavery on the sex market. It is a recognized fact that the "companies" which hunt down these millions are concentrated throughout Europe, while the primary sources of the "raw material" or merchandise which their brokers import for them are Eastern Europe, Latin America, and Southeast Asia.[1]

Awareness of facts such as these leads one to wonder in disbelief what sort of value lies in the impressive charters and resolutions that lie safely ensconced in the UN's well-guarded file cabinets and which speak in such glowing, solicitous terms about human rights, including the woman's right to enjoy full legal competence and to live a life of freedom and dignity. Who knows? Perhaps the value of these words lies in their being considered a type of magic spell that exercises its subtle influence only within this hidden amulet hung for protection on the forehead of the United Nations, may God preserve it from all harm!

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[1] From an article entitled. "Al-Ittijār fī laḥm al-Bashar", translated into Arabic by Aḥmad Khadr for **Al-Thaqāfah al-'Ālamīyah**, No. 72, September 1995, Kuwait. (The original article, entitled, "The Skin Trade", appeared in **Time** magazine, 6/21/93.)

Allow me to close this section with a reminder that less than one hundred-fifty years ago, British law allowed a man who had grown discontent with his wife to put her up for sale provided that he sold her for no less than six pence. In London today there is a well-known square which contains the remains of numerous images of women with special collars around their necks indicating that they were "wives for sale"!

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Women and their rights to freedom

It is customary among those who speak or write a human rights to discuss what is termed "the right to freedo in terms of the following: political freedom, econo freedom, social freedom and, in some cases, freedom religion or belief. In our present discussion, we have chose to group all these types of freedom into a single category, an it is for this reason that we have used the plural, "rights' rather than the singular, "right" in the subtitle for this section.

The reason for this is that given an accurate understanding of "freedom" and human beings' relationship to freedom, it will become clear that this God-given prerogative --given certain restrictions and limitations -- is shared equally by men and women; it will likewise become clear that freedom is not divided into parts, as it were, based on what particular activities or human interests we are speaking of. Rather, the various freedoms which people enjoy are essentially the same regardless of whether the activity in the context of which they are exercised is political, economic, religious or social.

What is important for us to know, as a matter of principle, is the degree of freedom which the divine Lawgiver grants to human beings, whoever they are. Moreover, we say "the divine Lawgiver" in order to make clear that we are not speaking of customs and laws of merely human origin, all of which offer their varied viewpoints and judgments. It is likewise important for us to understand the following points:

First: What do we mean by "freedom"? It is clear that we are not speaking here of subjective freedom, that is, the human ability to exercise self-control and the capacity to find partial liberation from our human tendencies and dispositions. This aspect of freedom, as important as it is, is not of concern to us in this context. Rather, what we are speaking of here is objective freedom, that is, the degree of flexibility which we enjoy in the manner in which we relate and respond to the world around us.

Second: What is Islam's position on this objective freedom? When seen in relation to God, human beings possess no freedom at all. In other words, we are only able to exercise as much flexibility in the manner in which we conduct ourselves as we are allowed to by the Divine. The reason for this is that, in essence, every human being is a slave owned by God Almighty. This fact, though not apparent to those who lack faith, is clearly perceived by those who believe in God's existence and His absolute right over us. This is what we mean, then, when we say that human beings are accountable before God. In other words, they are responsible for carrying out a number of functions and tasks which God has assigned us. At the same time, however, we have the capacity to act only within the limits which God has set for us.

The full value and effects of this divinely given accountability will only be fully apparent in the afterlife, or what God has called, "The Day of Reckoning" or "The Day of Reward and Punishment." On that day, individuals who have behaved in this life as though they were not bound by any sort of divine accountability will find themselves subject to various types of chastisement, while those who have heeded God's commands and precepts will enjoy corresponding rewards. In this life, we possess freedom in the sense that all paths are basically open to us, and we are at liberty to conduct ourselves in the various spheres of life in the way we choose. However, we remain responsible to God for our actions provided that we are mature and of full legal age. The divine revelation speaks in eloquent terms of the earthly freedom we have been granted. At the same time, however, it warns us of the eternal consequences of abusing this freedom. God declares, "Perhaps those who disbelieve will wish that they had been Muslims. Let them eat and enjoy themselves and be diverted by [false] hope, for they are going to know" [Al-Ḥijr (The Rocky Tract) 15: 2-3].

Someone might object that Islamic ordinances governing human conduct in some cases entail earthly penalties as a result of which someone who violates them may lose the freedom to act as he or she wishes. Examples of such violations include murder, which calls for the death penalty, adultery, for which the penalty is stoning or flogging, theft, the penalty for which is the amputation of the thief's hand, and falsely accusing a chaste person of adultery, for which the slanderer is to be given eighty lashes. In response to this objection, it should be pointed out that the penalties prescribed by Islamic law for violations such as these may not be carried out unless the person accused of them has subjected himself or herself to the ordinances of Islamic law. It follows, then, that no such punishment can be carried out unless such a person has openly recognized the truths and foundations of Islam. As for someone who has not yet surrendered to the rulings and laws of Islam, he or she may not be prosecuted -- at least, not in this world -- based on the behavioral requirements that come into effect upon acknowledgment of fundamental Islamic beliefs and teachings.[1]

If, by contrast, someone has declared his or her faith in and surrender to the corpus of Islamic doctrine, this is tantamount to an announcement of the fact that thenceforth, he or she is subject to the behavioral codes which arise out of these doctrines; as such, it becomes the right of the Islamic judiciary to hold such a person accountable for adherence to these codes. The relationship between the laws of Islam and such a man or woman is, in this sense, comparable to the relationship between a government or state and its citizens, who are legally accountable to the state and subject to its laws and regulations.

This judicial restriction on freedoms as exercised in this earthly life is required in order to protect others from injustice and harm. Hence, its purpose is not primarily to punish the offender for his or her violation of God's command, but rather, to impose a penalty commensurate with a given crime or a legal settlement on behalf of those who have suffered injustice and oppression.[1] The restriction of freedoms for this reason is a social right and a necessary means of preserving culture and civilization, promoting justice, and establishing beneficial, cooperative relationships among people. Islamic societies thus restrict freedoms to some degree in order to make certain that such freedoms serve as a source of security for all, not a privilege granted only to those who are more powerful, more wealthy, or more adept at manipulation and dispossessing others of their rights.

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[1] See the details of this ruling in Sharḥ al-Jalāl al-Maḥallī 'alá 'Jam' al-Jawāmi' ma'a Ḥāshiyat al-Banānī 'alayhi ("Jalāl al-Dīn al-Maḥallī's commentary on al-Sukbī's work entitled Jam' al-Jawāmi' with marginal notes by al-Banānī"), 1/111, Al-Maṭba'ah al-Khayrīyah.

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In light of the foregoing, it can be affirmed that a person's relationship with himself or herself in the form of subjective freedom, and his or her relationship with society in the form of objective freedom, are essentially the same for both the man and the woman. Hence, neither masculinity as such nor femininity as such has any bearing on either the essence of freedom or the degree of freedom which a person enjoys. For example, a man is no more capable than a woman of throwing off the yoke of his human nature and the laws associated with it. Similarly, there can be no doubt that in the case of the woman just in the case of the man, the only thing that rightfully poses limits and controls on a person's freedom in his or her relationships with others is the requirement that others' freedoms likewise be preserved and that their legitimate interests be protected.

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[1] A detailed treatment of this issue may be found in the chapter entitled, "Human Beings Between Freedom and Accountability" in my book, **Al-Jihād: Kayfa Nafhamuh wa-Kayfa Numārisuh** ("Jihad: How We Should Understand and Carry It Out"), pp. 39ff.

This said, let us turn now to those aspects of this topic which are prone to be controversial.

One: The freedom to work. With respect to this freedom, it needs to be stressed here that the types of work which Islam has declared to be permissible for men, it has likewise declared to be permissible for women, while those types of work which would be dishonorable and which, therefore, God has forbidden to men, are likewise forbidden to women. Moreover, given that God Almighty requires the man to abide by certain rules of social and behavioral etiquette, it follows that the jobs he performs must be of a nature that allows him to abide by these rules of conduct. Similarly, given the rules of social and behavioral etiquette that God has established for the woman, she must accordingly make certain that whatever profession she practices or tasks she performs, she remains in conformity with these divinely given rules of conduct.

For example, God has required the woman in particular to maintain a certain standard of modesty, while He has forbidden her to enter situations in which she would be alone with a strange man. (Men are likewise forbidden to enter situations in which they would be alone with a strange woman.) Consequently, it would not be permissible for a woman to undertake jobs that would require her to enter such potentially compromising situations or to abandon the type of attire that ensures the required standard of modesty. Conversely, a man is not permitted to take on professional positions or tasks which would require him to be alone with a strange woman or expose him to temptation due to his mixing with women who are not committed to God-given standards of modesty. However, if no dangers are posed by the work in question, both the man and the woman are free to perform any task, occupy any position or practice any profession that is legitimate in and of itself, be it manufacturing, agriculture, business, or anything else.

However, when professions or professional tasks come into conflict with social and family requirements, it becomes necessary to adhere to a scale of priorities, giving more or less preference to this or that task depending on the degree of importance it enjoys within an Islamic frame of reference. Specifically, such an "Islamic scale of priorities" gives consideration first to what are referred to in Islamic jurisprudence as "the five fundamentals" -- namely: (1) the protection of human life, (2) the well-being of the Islamic religion and all it stands for by way of guidance to truth, proper belief, and righteous conduct and dealings with others, (3) adherence to sound reason and discernment, (4) the preservation of human dignity, and (5) the preservation of material wealth; one step lower on the scale of priorities are "exigencies", that is, the provision of conditions which will spare people undue hardship in their lives; and these, in turn, are followed by what might be termed "ameliorations", that is, those practices and customs which, although they may not be necessary, nevertheless contribute to a life that is pleasant, seemly, and supportive of society's best interests.

A married woman with children, for example, is called upon by society to perform a long, varied list of tasks which, in most cases, are more than she can handle. In addition to her responsibility to care for her husband and provide for his comfort and happiness, she is expected to care for and raise her young children; then, depending on her educational background and field of specialization, she may be called upon to serve society as a teacher or in some other professional capacity. Above and beyond these things, she may have experience in a particular kind of voluntary service, as a result of which she is asked to put this experience to use in a way that contributes to sustaining the society and solving some of its problems. Needless to say, such a woman will simply not have enough time to undertake all these activities, all of which are worthy and beneficial in and of themselves. There is no sound, logical solution in such a situation other than to resort to the type of scale of priorities we have detailed above.

According to this scale of priorities, which is consistent with observations made by social scientists, commitment by the wife-mother to caring for her husband and providing their children with a sound upbringing may be classified as one of the "five fundamentals" mentioned above in view of its importance for the preservation of society's interests. After all, the soundness and health of the family is the primary foundation for the soundness and health of society as a whole; if the family becomes unhealthy, carried away by the winds of chaos and neglect, then none of the other academic and cultural activities which the mother-wife might take part in, nor any other social forces, accumulated wealth or economic power can supplant the family in the proper establishment of society. Society is, and always has been, reflective of the state of the family, be it healthy or unhealthy, and one would be hard pressed to provide counterexamples to this long-observed principle.

With this in mind, one can see that if the wife-mother is not able to balance her family responsibilities and her other cultural and social activities, then according to the scale of priorities we have proposed, she should reserve her time for that which is the most necessary, i.e., the nurture of her family, even if this necessitates sacrificing other functions and tasks. The truth of what we are saying becomes clearer when we encounter a wife-mother who has been propelled into the workplace merely for the sake of social prestige or the desire to have more money. In a case such as this, she is undoubtedly risking her marital life, or at the very last, the atmosphere of contentment that ought to exist between her and her husband. At the same time, she is risking what may be even more important -- that is, the care needed by her children and the time required to give them an exemplary upbringing -- simply in order to pursue some passing fancy and the desire for a type of enjoyment which will, before long, become a costly burden.

In order to facilitate the woman's adherence to this scale of priorities, and lest she find it a source of hardship to commit herself to it, the Islamic law has spared her the burden of providing financial support for herself and her children, as well as the effort she would have had to expend in order to provide such support, by laying this responsibility on the husband. Let us pause now to reflect on the Qur'anic verse below, which draws a link between the sacred duty to which every wife-mother is to devote herself and the protection and provision guaranteed to her by the Islamic law, and the husband's God-given responsibility to support her and provide her with all she needs in order to lead a life of contentment and dignity. God states, "Mothers may nurse their children two complete years for whoever wishes to complete the nursing period. Upon the father is their [i.e., the mothers'] provision and their clothing according to what is reasonable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. And upon the [father's] heir is a duty like that [of the father]" [Al-Baqarah (The Cow) 2: 233].

What our divine Lawgiver notes here is that under all circumstances, the wife is responsible for nurturing the family and protecting it from those elements that might threaten it with disintegration. In other words, despite the fact that this is a joint responsibility shared by the wife and the husband, there remain certain critical functions which only the mother can perform in the ideal manner. Moreover, given the fact that the need to go out and earn a living for the family would constitute a major hindrance to her ability to fulfill such domestic responsibilities, the Lawgiver has done away with this hindrance by charging the husband with the duty to provide adequately for her daily needs.

It should be realized, however, that this assistance which the divine Lawgiver has provided for the woman in the form of a guiding scale of priorities does not mean that she is forbidden to occupy professional positions or engage in tasks outside the home. On the contrary, the door to employment and various other outside activities remains open to her just as it does to the man. However, the necessity of beginning with what is most important and gradually moving down the scale of priorities is an organizational duty, as it were, dictated by both common sense and social realities, and which applies equally to the man and the woman.

For example, if both spouses are convinced that the wife's household responsibilities are sufficiently manageable to allow her to devote time to other pursuits, then there is nothing to prevent her, in terms of Islamic law, from engaging in whatever sort of beneficial activity she chooses to take part in outside the home. The only condition which applies here is that the wife should bear in mind the basic rules of conduct which she should observe in such situations. Then, if the spouses should come to feel that her activities outside the home are interfering with the more important tasks of caring for and protecting the family, they should make whatever decision is consonant with the principle of graded social interests.

Wherever we happen to live, we should be on our guard against the dangers posed by modern life and its pressures lest we allow our households -- which are meant to be, in the truest and most sacred sense, "home" to cohesive family units -- to be transformed into little more than miniature "motels" that provide room and board to a collection of individuals among whom the bonds of cooperation and kinship have been all but severed. What is it, one might ask, that would cause family ties to become frayed to such an extent? One potential cause of such a phenomenon is the process of each member of the family coming to act as an independent unit, responsible solely for himself or herself. In a situation like this, each member of the family feels obliged to go in search of the life he or she dreams of for himself or herself by dint of his or her own personal effort and hard work. Each family member's preoccupation with the quest to fulfill his or her own needs separately from the others damages the kinship network among them, extinguishing the warmth of the human bonds whose function was to smelt them together in a crucible of unity, solidarity and cooperation. This type of transformation, which is sometimes referred to as familial malfunction and disintegration, has become increasingly prevalent in Western societies.

This tragic reality under whose weight the West suffers today has both a form and a content which are diametrically opposed to one another. As for the "form", it is represented by the economic independence which Western women enjoy, and which deceives large numbers of gullible men and women in Third World societies. As for the "content", it is represented by the man's forcing the woman to work outside the home in order to meet her material needs even if this requires her to repress her femininity by performing harsh, exhausting tasks. After forcing his wife to have sexual relations with him, the husband then forces her to give up her function as a mother, which includes devoting herself full-time to caring for her home and her children. If the wife grows weary of such a situation and protests against this injustice, she is relegated to the ranks of divorcees, but not until she has received her full share of pain and abuse, including beatings. There are many such women, especially in the United States, and they represent a large, pitiable community in the West today.[1]

As for the law of Islam, it situates the woman in a place where she can feel safe, tranquil and assured of her husband's respect for her uniqueness as a woman. It has provided her with the ideal way in which to be a useful member of a happy, upstanding family who has the freedom to devote herself to caring for this family and protecting it from anything and everything that might threaten its well-being. At the same time, it opens the way for her to engage in whatever social and/or professional activities she wishes to take part in outside the home; however, she is able to do so in pursuit of her own hobbies, interests and desires, not out of a sense of urgent necessity.

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[1] It is unfortunate that the author generalizes so freely on this topic, thereby giving the impression that such situations somehow represent the norm in Western societies [t.n.].

For those of my readers who still insist that this aspect of Islamic law deprives the woman of her economic independence and of the opportunity to pursue her own personal fulfillment, allow me to quote the following words penned by German authoress Esther Vilar[1]. She states:

The only attempt to push the woman to work outside the home and, as a consequence, to develop her intelligence, has been initiated by women's rights advocates who say, "The true woman should strive for self-fulfillment, but this will not be possible for her unless she, like the man, leaves the domestic sphere in pursuit of employment." However, women will never be taken in by this flimsy deceit. For there is no doubt that they have foolish minds; however, they could not possibly be as foolish as those who advocate women's rights. After all, going out to work like the man means, as far as they are concerned, having single-handedly to meet the family's every need. Despite the fact that virtually every sector of the workplace has been open to women for a half-century now, we have yet to hear of a single woman who chose of her own accord to go on working throughout her lifetime in order to feed her family.[2]

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[1] Esther Vilar, a playwright, novelist and writer of non-fiction, was born in Argentina and lives in Spain. She is best known in the United states for her book entitled.

The Manipulated Man (Abelard Schuman, 1971) and **The Polygamouns Sex: a man's right to the other Woman** (W. H. Allen) [t.n.].

[2] Ḥaqq al-rajul fī al-Tazawwuj bi-Akthar min wāḥidah ("The Man's Right to Take More Than One Wife"), translated into Arabic by al-Hādī Sulaymān, p. 22. The alternatire translation. **The Polygamous sex…**, is found in footnote 1 above.

Two: Political freedom. In our discussion thus far, we have seen how objective freedom, that is, the degree of freedom which a person enjoys in his or her social relationships, applies to the woman's freedom to work outside the home; as we shall see shortly, this objective freedom likewise applies to the political activities in which a woman may take part. If we exclude the duties involved in being a head of state -- which, in an Islamic society, is often referred to as the caliphate, that is, the leadership exercised by a successor to the Messenger of God (pbuh) -- then virtually all other political ranks, positions and activities are deemed by Islamic law to be potential spheres of participation by men and women alike.

Let us begin with the position taken by Islamic law on appointing a woman as head of state, as well as the wisdom entailed by this position. According to a tradition recorded by al-Bukhārī, Aḥmad Ibn Ḥanbal, al-Tirmidhī and al-Nasā'ī on the authority of Abū Bakrah, the Messenger of God (pbuh) said, "No nation that places itself under the leadership of a woman will prosper." Those familiar with Islamic history will know that the Prophet (pbuh) uttered these words when the Persian king Shirawayh died and was succeeded to the throne by his daughter, Buran. As for the implications of this sound tradition, we find that most scholars of Islamic law understand it to be a prohibition against assigning the functions of caliph or head of state to a woman; they also conclude from this statement by the Prophet (pbuh) that a pledge of allegiance to a woman in this capacity will have no legal validity.[1]

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[1] See al-Nawawī, Rawḍat al-Ṭālibīn ("The Seekers' Garden"), 10/420; Ibn Qadāmah, Al-Mughnī ("That Which Suffices"), 8/525; and Ibn Ḥajar al-'Asqalānī, Fatḥ al-Bārī ("Divinely Granted Understanding"), 13/43.

What, then, is the wisdom to be found in this implicit interdiction? In answer to this question, it should be noted that a large percentage of the duties performed by a caliph or head of state (that is, in an Islamic context) are religious in nature rather than being merely political. For example, one of the leader's duties is to gather the people for the Friday congregational prayer and deliver the Friday sermon. However, for reasons which were noted above, the woman is not required to perform or even attend the Friday congregational prayer. How, then, can a woman lead and oversee others in the performance of a task which she herself is not required to engage in? Someone might say: Then let her delegate this task to a man under her authority. However, the rule of jurisprudence which applies here is that it is not permissible to assign someone as one's deputy in the performance of a given task unless the task concerned is required equally of both the person doing the assigning and the person being assigned, and unless the same conditions for the valid performance of this task apply equally to both.

Another function of the caliph or head of state is to declare war when the situation requires, as well as to command the army. As we have seen, the woman is not required to engage in armed struggle in defense of Islam or the Islamic nation unless there is a general call to arms, i.e., when there has been a surprise attack by the enemy on Muslims' own territory. On what basis, then, would a woman be assigned to lead people in military operations which she is not required to take part in herself? An outgrowth of the war-related duties of the caliph or head of state is the duty to declare truces and peace agreements; all these responsibilities, as we have seen, are inapplicable to the woman since the basis for all of them, namely, armed struggle for the sake of the Islamic nation, is not required of the woman.

Another responsibility borne by the caliph or Muslim head of state is to take people out to perform the prayers associated with the Day of Fastbreaking at the conclusion of the month of Ramaḍān, and the Day of Sacrifice, as well as the prayer for rain. The caliph or head of state is also required to deliver the sermon associated with the prayers performed on the two religious holidays mentioned here. However, as in the case of the previously mentioned duties associated with heading an Islamic state, the woman's circumstances may not permit her to fulfill them. It follows, then, that the woman should not be placed in such uncomfortable situations unless there is some urgent necessity for doing so; and in fact, there is no real need to charge her with these particular responsibilities.

However, aside from the fact that many of the functions performed by the caliph or head of state are judged by Islamic law to be purely religious in nature and, in addition, are functions for which a woman is not held responsible, one should also bear in mind that historical reality itself from the days of the earliest human civilizations is consistent with the point of view embodied in Islamic law. Think for a moment of the names of those who have risen to power as kings or heads of state in non-Islamic societies over the millennia of recorded human history, and you will find that the vast majority of them were men. This fact alone serves as clear evidence that these societies, induding both their men and their women, were convinced of the truth of what Islam teaches in this regard; otherwise, why have women not represented half -- or even a fourth, or a tenth -- of those who have become presidents, kings, etc. with governing authority throughout these various phases of history? Why have we never heard of a woman occupying the White House in the United States since the establishment of that nation? Indeed, why have we not heard of a woman even nominating herself for the presidency of the United States -- the government which itself urges women in the Arab and Islamic worlds to fight for this very right?

Be that as it may, when we go on to speak of political functions and tasks other than those performed by a head of state, we hardly encounter any distinction between men and women. One such task is that of pledging allegiance to the ruler and, by extension, to those who have been chosen as representatives of the nation or people in the form of consultative councils. As my readers may be aware, the legitimacy of the government of a caliph or Muslim head of state is conditional on the allegiance given to him by the group of people referred to as (*ahl al-ḥall wa-al-ʻaqd*), that is, "those qualified to release and bind" (in other words, to make and/or revoke decisions affecting the interests of the Muslim community as a whole). An exception is made to this principle, of course, if a ruler comes to power by force or military victory, in which case the act of pledging allegiance to the head of state is merely an obligation that people have no choice but to fulfill, and it has no practical significance or value in relation to whether the person remains in authority or not.

The act of pledging allegiance to a caliph or head of state, however, is a purely political act rather than a religious duty. This may be seen from the fact that the people who entered Islam on the day Mecca was conquered by the Prophet (pbuh) became Muslims by their simple declaration of faith in and surrender to the foundational beliefs and practices of Islam. Their pledges of allegiance to the Messenger of God (pbuh) were not a necessary condition for the legitimacy of their conversions to Islam; even so, they were quick to pledge their political allegiance to him as well. What, one might ask, would have led them to do this?

The necessity of this pledge lay in the importance of declaring their willingness to recognize the political authority which the Messenger of God (pbuh) now possessed. After his emigration from Mecca to Medina and the transformation of the latter city into what came to be the first "abode of Islam", an important change took place; for now, in addition to being the Prophet who had been sent by God and who spoke on God's behalf, the Messenger of God (pbuh) took on the status of imam as well, that is, the spiritual and political leader charged with preserving the interests of the Muslim nation. The Muslims' relationship to the Messenger of God (pbuh) in his capacity as a prophet delivering a message from the Divine was based on its proper foundation by means of their faith in and surrender to the truths of Islam; however, their relationship with him (pbuh) in his capacity as imam and leader of the nation only came to rest on its proper foundation as they pledged obedience to him (pbuh) under all circumstances, in good times and in bad, as their religious leader and commander.

Hence, the pledge of allegiance given by the individual members of the nation to the head of state constitutes the performance of a task which, though political in nature, is nevertheless required by the religion. The first such pledge was given by the people of Mecca to the Messenger of God (pbuh) when Mecca was conquered, and this in turn has been followed in the years since by the pledges of allegiance given to the caliphs and rulers who succeeded him (pbuh). Moreover, the responsibility to offer this political oath of loyalty rests equally on the shoulders of men and women. The only difference between men and women in this regard has to do with the fact that, as we are told by accounts recorded by al-Bukhārī and Muslim and resting on the authority of 'Ā'ishah, the "Mother of the Faithful", the Messenger of God (pbuh) received women's pledges of allegiance by means of words alone rather than, as in the case of men, by means of a handshake.[1] The account of the oaths of loyalty which the Prophet (pbuh) received from women after the conquest of Mecca is dealt with in considerable detail by both Ibn Hishām in his biography of the Prophet's life, and by al-Ṭabarī in his **History**.

In view of the equality between men and women with respect to their responsibility to pledge allegiance to the Muslim head of state, it follows that the same equality applies to their right and responsibility to elect the members of the shūrá council, that is, consultative council [which, in turn, is analogous to modern-day people's assemblies, parliaments, houses of representatives, etc.], since the ruling on both situations -- that of pledging allegiance to a Muslim ruler and that of electing members of a representative council -- has the same source. It is true, of course, that in the past, the shūrá, or consultative council was not formed through pledges of allegiance or elections but rather, by the state's selection of individuals who were referred to as "those qualified to release and bind". However, when the state turned this right of choice over to the people themselves -- which, in the context of Islamic law, is perfectly legitimate and justified -- it followed by necessity that men and women would have equal rights to participate in this selection process. This legitimacy is based on the state's right to delegate the selection process to the people, and on the right granted by the divine Lawgiver to both men and women to engage in an even more critical and important process, namely, that of choosing the imam himself and pledging him their allegiance.

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[1] See al-Bukhārī, 8/135 and Muslim, 6/29, the Istanbul editions.

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The second function or task which falls under the rubric of "political freedom" is participation and membership in the type of consultative council described above. Such a council may take various forms and may function on a variety of levels. Regardless of the particular forms and styles which consultative councils have developed over the centuries and which they may develop in the future, the principle of the state's reliance on consultation in connection with all decisions and interpretative rulings which it issues on matters about which there is no definitive text in the Qur'an or the Sunnah is a legal duty rooted firmly in the religion itself. Addressing His Messenger (pbuh) in his capacity as the first political-religious leader of the Muslim nation, God declared, "So by mercy from Allāh, O Muḥammad, you were lenient with them. If you had been rude [in speech] and harsh in heart, they would have disbanded from about you. So pardon them and ask forgiveness for them and consult them in the matter. And when you have decided, then rely upon Allāh. Indeed, Allāh loves those who rely upon Him" [Āl 'Imrān (The House of 'Imrān) 3: 159]. In another passage of the Qur'an, God describes the series of future Islamic societies which would continue adhering to the divinely revealed pattern in obedience to His commands and guidance with the words, "And those who have responded to their Lord and established prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them they spend [on others]" [Shūrá (Consultation) 42: 38].

This duty with which God has charged the Muslim nation's imam or head of state is, at the same time, a firmly established right of the nation itself; in other words, it is a duty which the state is bound to fulfill and a right to which the people of the nation are entitled. Moreover, in view of the fact that the nation, or the subjects of the state, are composed of both men and women, it follows that the right to participate in the process of consultation legitimately belongs to both these sectors of society.

This ruling was applied in the time of the Prophet (pbuh) in a clear, unambiguous manner. We read in a sound tradition that on the day on which the Truce of Ḥudaybiyah was concluded, the Messenger of God (pbuh) came in to see his wife Umm Salamah, complaining of the fact that when he instructed his companions to slaughter their sacrificial animals and shave their heads, they simply fell silent and did nothing. In response, Umm Salamah said to him (pbuh), "O Messenger of God, is this pleasing to you? If not, then go out and, without saying a word to any of them, slaughter your own sacrificial animal and call for your barber to shave your head." The Messenger of God (pbuh) then went out and did as Umm Salamah had advised him.[1] Now, I am certain that, given the wisdom and worldly experience that already belonged to the Messenger of God (pbuh), he had no real need to consult Umm Salamah concerning this matter. However, as has been noted by al-Ḥasan al-Baṣrī and others, he (pbuh) wanted to set an example for others to follow lest any man feel that it is shameful to consult a woman whom he might be tempted to view as less knowledgeable, insightful or understanding than he is.[2]

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[1] See al-Bukhārī, 3/182, Istanbul Edition.

[2] In his book entitled, **Al-Umm**, al-Shāfi'ī quotes al-Ḥasan al-Baṣrī as stating, "Even though the Prophet (pbuh) had no need to consult them -- i.e., women -- he nevertheless wished to set a precedent for rulers after him to abide by."

And in fact, we find that the Companions of the Prophet (pbuh) used to consult women concerning a variety of affairs. Foremost among those who followed this practice was ‘Umar Ibn al-Khaṭṭāb, may God be pleased with him. Ibn al-Jawzī quotes Yūsuf Ibn al-Mājishūn as saying, “When we were boys, Ibn Shihāb said to me, a brother of mine and a paternal cousin of mine, ‘Do not hold yourselves in contempt on account of your tender age. After all, whenever ‘Umar Ibn al-Khaṭṭāb -- may he meet with God's favor -- found something difficult or perplexing, he would summon young men and consult them due to the keenness of their minds; he also used to consult women.’”[1]

In his book, Al-Iṣābah, Ibn Ḥajar quotes Abū Burdah, who quoted his father as saying, “Any time we found something difficult to understand and asked ‘Ā’ishah about it, we would find that she was knowledgeable about the matter.” Similarly, ‘Aṭā’ Ibn Abī Rābāḥ once said, “Of all people, ‘Ā’ishah was the one with the most extensive legal knowledge, and she could offer the most informed opinions on other people's characters.”[2] ‘Umar used to consult ‘Ā’ishah in all matters pertaining to women, as well as questions relating to the Prophet's domestic affairs.[3] ‘Umar used to consult other women as well; for example, he consulted his daughter Ḥafṣah concerning the maximum period of time a man should be absent from his wife in the fulfillment of military duties. In response, Ḥafṣah voiced the view that a husband should not be away from his wife for more than four months. 'Umar, in turn, adopted his daughter's opinion and set four months as the maximum length for the missions on which men could be sent away.[1]

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[1] Ibn al-Jawzī, Tārīkh ‘Umar Ibn al-Khaṭṭāb, ("The Biography of ‘Umar Ibn al-Khattāb"), p. 101.

[2] Ibn Hajar al-'Asqalānī, Al-Isābah, 4/392.

[3] Sa‘īd al-Afghānī, ‘Ā’ishah wa-al-Siyāsah ("‘Ā’ishah and Politics"), p. 22.

Not only so, but Abū Bakr, 'Uthmān, and 'Alī also consulted women. We find nothing in any of the writings recording the events of the Prophet's life or Islamic history to indicate that any of the four rightly guided caliphs or the Prophet's Companions denied women the right to be consulted and have their opinions taken into account. Moreover, the sound traditions conveying the words and actions of the Prophet (pbuh) contain nothing which would indicate, either explicitly or implicitly, that the woman has no right to participate in the process of consultation or that the Prophet (pbuh) deliberately avoided conferring with women on any matter concerning which men could be consulted as well.

As for unfounded sayings that are circulated by many people and which some laypersons might take to be the words of the Prophet himself (pbuh), one must be careful to examine them for their reliability. For example, there is one such saying according to which he (pbuh) instructed men saying, "Ask for their advice [i.e., women], then go against it. Give them rooms in which to live and teach them the chapter of the Qur'an entitled, 'The Light.'" However, I have yet to find this saying recorded as a tradition of the Messenger of God (pbuh) even with a weak or fabricated chain of transmission, much less a sound one. It is possible that it has been passed down by some as a saying attributed to 'Umar Ibn al-Khaṭṭāb. However, it is not a valid attribution; on the contrary, what we know about 'Umar stands in direct contradiction to such an instruction since, as we have seen, 'Umar not only asked for women's advice, but acted on it as well.[1]

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[1] Ibn al-Jawzī, Tārīkh 'Umar Ibn al-Khaṭṭāb, p. 101.

Based on evidence such as this from the actions of the Prophet (pbuh) and his Companions, most scholars of jurisprudence have concluded that both the right to participate in consultation and to issue *fatwás* -- that is, formal legal opinions -- are based on the same foundation. In other words, anyone who is permitted to issue a formal legal opinion (given the fulfillment of specific conditions) is also permitted to give advice, and an imam or a judge of Islamic law may seek out and act on such a person's counsel. It is a known fact that maleness is not a condition for being permitted to issue valid formal legal opinions; hence, neither is it a condition for the ability to give valid counsel and advice even to an imam or judge of Islamic law.

In his book entitled, Adab al-Qāḍī *(A Judge's Code of Conduct)*, al-Māwardī states, "Anyone who is qualified to issue valid formal legal opinions may also be consulted by a judge concerning rulings he is to hand down. Hence, it is possible for him to consult someone who is blind, a slave, or a woman."[1] This is the opinion held by most scholars of Islamic jurisprudence, all of whom affirm that a judge must consult others before finalizing any ruling or verdict which he hands down. In addition, they affirm that both men and women are equally qualified to act as consultants. In the course of my research into the points of view argued for by scholars of jurisprudence, I have encountered no text or account which supports denying women the right to participate fully in the consultative process.[2]

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[1] See al-Sakhāwī, Al-Maqāṣid al-Ḥasanah ("The Noble Aims"), p. 248; al-'Ajlūnī, Kashf al-Khafā' ("Disclosure of the Hidden"), 2/4; and al-Kittānī, Al-Tarātīb al-Idāriyah ("Administrative Arrangements"), 2/102.

However, this unequivocal ruling as found in the writings of virtually all of the ancient scholars of jurisprudence as well as in the practice of both the Prophet (pbuh) and his Companions has, in more recent times, been obscured to some extent due to the writings of certain contemporary jurisprudents. One of the more prominent thinkers in this group is Shaykh Abū al-A'lá al-Mawdūdī, who states in his book entitled, Naẓarīyat al-Islām wa-Hadyuh fī al-Siyāsah wa-al-Qānūn wa-al-Dustūr, *(The Theory and Enlightened Guidance of Islam in Politics, Law and the Constitution)* that maleness is a condition for one to be qualified for membership in a consultative council. In so saying, al-

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[1] Al-Māwardī, Adab al-Qāḍī, 1/264.

[2] For a detailed discussion of Islam's ruling on the issue of consultation, see my book entitled, **Al-Shūrá fī al-Islām** ("Consultation in Islam"), Amman: Publications of the Royal Academy for Studies in Islamic Culture, 2/481ff.

Mawdūdī violates the guidance brought by the Prophet (pbuh), the practice established by his Companions, and the consensus of Muslim jurisprudents over the ages. The argument on which al-Mawdūdī bases his viewpoint is that in giving advice and counsel, the person who is consulted exercises a kind of "guardianship" (qiwāmah). Moreover, God states, "Men are in charge of women by [right of] what Allāh has given one over the other and what they spend [for maintenance] from their wealth" [Al-Nisā' (Women) 4: 34]; hence, it follows that only men are qualified to be sought out for advice and counsel.[1]

Aside from what I have to say later in this book on the meaning of the term "guardianship" as it is used in the divine revelation, I can only wonder in astonishment: What necessary connection is there between consultation and guardianship? As Muslim jurisprudents themselves note, it is consistent with the rules of etiquette governing the Islamic judiciary for a judge to consult even individuals who are less knowledgeable and perceptive than he is. The reason given by jurisprudents for this ruling is that someone with inferior knowledge or learning may still have something to offer that a more knowledgeable or learned person lacks.[2] But even though this is so, does it mean that offering counsel or advice places the advisor in the position of a "guardian" over the person who sought out the advice? It might also be asked: What value is to be found in an argument like al-Mawdūdī's when it comes in direct conflict with the practice of both the Prophet (pbuh) and his Companions?

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[1] Al-Mawdūdī, Naẓarīyat al-Islām, pp. 295ff.

[2] See al-Ramlī, Nihāyat al-Muḥtāj, 8/242.

No matter what form is taken by consultation, and regardless of the various contexts and organizational methods with which it might be associated, it continues to be a legitimate type of cooperation the goal of which is to arrive at knowledge of the truth and to encourage one another to live in accordance with it. Muslims male and female share equally in this responsibility which, though political in outward appearance, is often religious, social and economic in essence.

It is true, of course, that Islam does not grant consultative councils the authority to pass legislation which would be inconsistent with the divine law. However, this prohibition has nothing to do with the gender of the individuals who pass such legislation. After all, the danger posed by laws which conflict with or contradict divinely given precepts affects everyone, both men and women alike.

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As for the third type of function included in the sphere of political freedom, it is those tasks associated with ministerial posts in the government. If a woman is qualified based on education, experience, etc. to fill such a post and is, in addition, willing to conduct herself in accordance with the precepts given us by God Almighty and which we have already had the opportunity to discuss, there is nothing in Islamic law which would prevent her from undertaking the tasks entailed by such a post merely because she is a woman. In other words, the prohibition implied in the Prophet's words, "No nation that places itself under the leadership of a woman will prosper" applies specifically and exclusively to the position of head of state. As we have noted, this statement was made with reference to Buran, daughter of the Persian monarch Shirawayh, who was set up as queen over the Persian empire after her father's death, and is thus applicable to comparable situations in other Islamic societies.

As for political posts and tasks that are beneath the ministerial level, there is nothing said in the Qur'an or the Sunnah regarding the permissibility or impermissibility of a woman's taking them on. Moreover, as my readers may already know, there is a general principle in Islamic jurisprudence according to which, unless something is expressly forbidden, it is judged to be permitted. What this means is that all political activities which the woman is capable of taking part in -- with the exception, as we have stated, of the position of head of state -- fall under this "default" ruling of permissibility provided that she possesses the necessary qualifications for the activity or task concerned, and that she adheres to the Islamic religion's precepts and rules of conduct.

In his book entitled, Al-Āḥkām al-Ṣūlṭānīyāḥ *(Rulings Pertaining to the Exercise of Authority)*, al-Māwardī stipulates, oddly, that one must be a male in order to occupy the post of government minister, be it executive or mandatory in nature (i.e., based on delegated authority),[1] whereas he does not stipulate this condition for the post of head of state.[2] I am certain that, given the Prophet's clear statements on this matter, al-Māwardī's failure to stipulate maleness as a condition for the permissibility of acting as head of state was an oversight on his part. As for his stipulation of maleness as a necessary qualification for holding ministerial posts, we hope it was merely an oversight as well since, as we have seen, such posts are not included either explicitly or implicitly in the Prophet's tacit prohibition quoted above. It is true, admittedly, that ministerial duties carried out on the basis of delegated authority might be viewed as belonging within the sphere of the duties proper to a head of state, since in effect, responsibilities undertaken on the basis of delegated authority are carried out in the minister's capacity as proxy for the head of state; the person who fulfills this proxy or representative function is referred to in modern political terms not as a minister, but rather as a vice-president, for example. As such, it is reasonable to hold that the person serving as the head of state's proxy should, legally speaking, meet the same conditions as those required of the head of state himself.

Still another function which may be categorized as political is that of the judiciary which, although it concerns itself with the enforcement of specific legal precepts among litigants, it remains -- insofar as it is a part of the government in Islam -- an element of the state's political structure. Nevertheless, scholars of jurisprudence have differed over whether a woman is qualified to serve in the judiciary. The majority of them stipulate that only men may serve as judges in courts of Islamic law, although the Hanafites hold that a woman may serve as a judge in civil courts in view of the fact that women's testimony is fully valid in all civil suits. However, the Hanafites agree with other schools of thought that only a man may hear criminal cases due to the invalidity of a woman's testimony in this context.[1]

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[1] Al-Māwardī, Al-Aḥkām al-Sulṭāniyah, p. 6 and p. 27.
[2] Ibid, p. 27.

Ibn Jarīr al-Ṭabarī holds that it is permissible to assign a woman the tasks associated with the judiciary without restriction. The argument on which al-Ṭabarī bases this point of view is that the judiciary is similar to the task of issuing formal legal opinions (fatāwá, singular, fatwá); moreover, given the consensus among scholars of Islamic jurisprudence that it is permissible for a woman to issue formal legal opinions, it follows as a matter of course that it is permissible for a woman to act in the capacity of judge in an Islamic court and for her rulings to be fully valid. In his book, Fatḥ al-Bārī, Ibn Ḥajar quotes a number of Malikites as stating, like Ibn Jarīr, that a Muslim woman is permitted to serve on the judiciary without restriction, that is, in both civil and criminal suits.[1] However, I have thus far been unable to find documentation for these quotations in any of the reference works at my disposal on Malikite jurisprudence.

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[1] See al-Kāsānī, Badā'i' al-Ṣanā'i', (a commentary on al-Samarqandī's Tuḥfat al-Fuqahā'), p. 7; Ibn 'Abidīn, Radd al-Muḥtār, ("A Response for Those in Uncertainty"), 4/392; and Ibn Rushd al-Ḥafīd, Bidāyat al-Mujtahid, (a work on comparative jurisprudence), 2/449. As for the matter of women's testimony in court and the divine wisdom to be found in the rulings relating to this issue, we have devoted a separate discussion to this topic later in the book.

As we conclude our discussion of this aspect of the rights and freedoms that the divine Lawgiver has granted the woman, I urge my readers to bear in mind that the rulings relating to this issue are based on two foundations: (1) That the woman who is nominated for any of the political functions mentioned above must possess the qualities and qualifications which ensure that she will be able to fulfill the tasks assigned to her in a way that brings about the societal benefits which such a function or position is designed to achieve. This condition, of course, applies equally to men and to women. (2) That the burdens associated with the task or position concerned must not force the woman to violate any Islamic precepts or rules of conduct. The fact is, fortunately, that none of the functions or positions which have been discussed here would oblige a woman to depart from any of the precepts or rules of etiquette to which she is to adhere; rather, it is the society itself -- with its various rules, systems, and customs -- which either forces, or does not force, the woman to depart from the Islamic code of ethics in the course of fulfilling her professional duties.

Lastly, it must not be forgotten that what we are talking about here is women's rights under Islam in a sound, upright

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[1] See Ibn Ḥajar, Fatḥ al-Bārī, 13/44.

Islamic milieu, After all, Islam is only responsible for protecting and preserving people's legitimate rights in a society where Islam itself holds sway. In other words, it is only reasonable that we should not hold Islam accountable for the failure of a society which has preserved nothing but partial gleanings of Islam's principles and precepts.

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Women and social rights

What we mean by "social rights" here is the rights to engage in the various types of activities, professions and skills which bring spiritual or material benefit to society. Moreover, despite the necessity of the woman's adherence to the precepts and rules of conduct laid down by the divine Lawgiver, there is nevertheless no distinction between the woman and the man with respect to the divinely given opportunities to participate in such beneficial activities. The basis for what we are saying is the precedents set in the generation of the Prophet's Companions, especially the period of time during which the Prophet (pbuh) was still in their midst. In what follows, let us review the various social activities that were being engaged in during the era of the Prophet (pbuh) and the woman's share in them.

First: Attending prayer with men in the mosque. According to one authentic tradition, the Messenger of God (pbuh) said, "If your wives ask your permission to go out to the mosque at night, allow them to do so."[1] We have another such tradition which originated with 'Ā'ishah, may God be pleased with her, who said, "When the Messenger of God (pbuh) was about to pray the dawn prayer, the women would depart with their garments wrapped about them, unrecognizable in the early morning darkness."[1]

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[1] Recorded by al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, and Aḥmad Ibn Ḥanbal based on the narrative of 'Abdullāh Ibn 'Umar.

In fact, it is quite possible that women took their young children to the mosque with them, as there is nothing which would have prevented them from doing so. According to another such tradition, the Prophet (pbuh) said, "When I rise to lead the prayer, I wish to go on at length; however, if I hear a young child crying, I shorten it instead so as not to cause hardship to the child's mother."[2]

An examination of these traditions and others like them makes it clear that in the days of the Prophet (pbuh) and his Companions, mosques were not the sole province of men as many people today believe. Rather, mosques were places of worship shared fully by men and women together. It also bears noting that Muslims' gathering for communal prayer in mosques serves as a springboard for many different social activities, and perhaps this is one of the most important reasons behind the Prophet's declaration that a prayer performed in community is twenty-five degrees better than one performed alone.[3]

Second: Taking part in academic and cultural pursuits. Gatherings devoted to the pursuit of knowledge and the study of the precepts and principles of Islam were not restricted to men in the days of the Prophet (pbuh); on the contrary, women made major contributions to such circles of learning. Throughout the time when the Prophet (pbuh) was present among the Muslims, women could be seen vying with men to take part in academic circles and attending sessions devoted to teaching, guidance, and the exchange of reports concerning the Prophet's words and deeds. Al-Bukhārī records a tradition going back to Abū Sa'īd al-Khudrī, who said, "A woman once came to the Messenger of God (pbuh) and said, 'O Messenger of God, the men have been monopolizing your time! Please set aside a day on which we [women] can come to you and you can teach us from what God has taught you.' The Prophet (pbuh) replied, 'Meet on such-and-such a day in such-and-such a place.' They did as he had instructed them, and he (pbuh) came and taught them what he had learned from God."

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[1] Recorded by al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī, and Aḥmad based on the narrative of 'A'ishah.

[2] Recorded by al-Bukhārī, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī, Ibn Mājah and Aḥmad Ibn Ḥanbal, all of whom base their narrative on the tradition passed down by Abū Qatādah al-Anṣarī, on the authority of his father.

[3] Recorded by Muslim in his section on "Mosques."

Al-Bukhārī records another tradition going back to Abū Mūsá al-Ash'arī, who said:

Asmā' Bint 'Umays came to the Messenger of God and said to him, "O Prophet of God, 'Umar said to me, 'We emigrated before you did, so we are more entitled to the Messenger of God than you are.'" "How did you reply to him?" the Prophet asked her. "I said, 'That isn't true at all! You were with the Messenger of God, who fed your hungry and preached to your ignorant. As for us, we were in the far-off land of Ethiopia as hated outcasts. We went there for the sake of God and His messenger, and during our time there we were persecuted and fearful.'" In response, he (pbuh) said, "No, he is not more entitled to me than you are. He and his companions have emigrated once, whereas you and the others who journeyed by ship to Ethiopia have emigrated twice." After this conversation, Asmā' said, "Abū Mūsá al-Ash'arī and those who had been with us on the ship have come to me in successive groups, asking me about this saying of the Prophet (pbuh). And believe me, nothing in this world could have given them greater joy than these words to them from the Prophet (pbuh)."

Muslim records a tradition going back to 'Āmir Ibn Shuraḥbīl, who once said to Fāṭīmāh Bint Qays, one of the first women to emigrate from Mecca, "Relate to me some saying that you have heard from the Messenger of God (pbuh) and which is attributed to no one but him." She replied, "I will do so if you wish." "Yes, I would like that, " he said. She then related to him a long tradition which includes the following account:

I heard someone calling out, "Come to communal prayer!" So I went to the mosque and prayed with the Messenger of God (pbuh). I was in the women's row in the back. When the Messenger of God had finished praying, he sat down on his pulpit, laughing. Then he said, "Let everyone remain in the spot where he or she prayed." Then he continued, saying, "Do you know why I have called you together today?" "God and His Messenger know best," we replied. He said, "Believe me, I did not call you together out of my own desire, nor out of fear, for that matter. Rather, I have gathered you together because Tamīm al-Dārī was a Christian man who came, pledged his allegiance to me and declared himself a Muslim. He also related things to me which are consistent with what I had been telling you about the anti-Christ. He told me that he had boarded a ship with thirty other men ...."

On the basis of sound traditions such as these, one may see that women during the days of the Prophet (pbuh), like men, used to attend gatherings devoted to the pursuit of knowledge, learning and instruction. Women, like men, were entrusted with traditions to be memorized and passed on to others, and they were every bit as active in such pursuits as men were; in fact, such activity on women's part met with encouragement and full support from the Messenger of God himself (pbuh).

Third: Participation in social gatherings, celebrations and banquets. Many of those who hear about the rules of conduct which Islam requires women to abide by, such as the wearing of the ḥijāb, the limitations on mixing of the sexes, and prohibitions against a woman being alone with a strange man, imagine that Muslim women during the days of the Prophet (pbuh) stayed at home all the time, and that public gatherings were restricted entirely to men. If those who have this impression about the situation of women in early Islam are convinced of the Islamic religion and content to abide by its teachings, you find them doing their utmost to prevent their womenfolk from having any contact with society and forbidding them to appear at any sort of public function. If, on the other hand, those who have reached this faulty conclusion about women's status in Islam are alienated from their religion and its principles, you find them accusing Islam of doing the woman injustice and keeping her buried in some gloomy sepulcher of harem-like constraints and prohibitions. This, in turn, leads such individuals to go to extremes by deliberately distancing their womenfolk, and other family members as well, from virtually all codes of behavior and inhibitions, be they based on religion or on simple common sense.

In point of fact, however, true Islam stands worlds apart from both of these futile, unrealistic responses. Women during the lifetime of the Prophet (pbuh) and his Companions, despite their adherence to the recognized limits and rules of conduct prescribed by Islam, used to appear along with men at public gatherings and occasions and carry out the same roles as the men provided that such gatherings and occasions remained within the sphere of legitimate, beneficial service and action. Not only so, but this was the case even when the gatherings and occasions in question involved nothing more than innocent enjoyment or entertainment; indeed, women took part with men in such activities without any sense of embarrassment or guilt.

In this connection, let us note the following tradition, recorded by Al-Bukhārī and Muslim and based on the account passed down by Sahl Ibn Sa'd al-Sā'idī, who said, "When Abū Usayd al-Sā'idī hosted a wedding feast, he invited the Prophet and his Companions, and the only person to prepare and serve the food to them was his wife, Umm Usayd. Umm Usayd had some dates which she had been soaking since the night before, so when the Prophet (pbuh) finished eating, she dissolved them and gave them to him (pbuh) to drink." Al-Bukhārī records this particular tradition under the heading, "Women's Serving Men at Weddings." It should be realized, however, that when Umm Usayd rendered this service, she did so with full adherence to Islam's requirements with respect to modest attire and comportment.

Still another tradition of relevance here is the following, passed down by 'Ā'ishah, may God be pleased with her, and recorded by both Muslim and al-Bukhārī. She says, "Abū Bakr once came to see me when I had two of the Helpers' slave girls with me, and they were singing songs based on accounts which the Helpers had passed down about the Battle of Bu'āth.[1] They weren't professional singers, but they were playing tambourines as they sang. When Abū Bakr came in he exclaimed, 'So, you've brought Satan's pipe-players into the house of the Messenger of God (pbuh)?!' It happened to be a holiday, and the Messenger of God (pbuh) replied to him, saying, 'Abū Bakr, all people have their holidays, and this is our holiday.'"

Muslim records the following tradition passed down by Anas, who said, "The Messenger of God (pbuh) had a Persian neighbor who was a skilled cook. One day this neighbor prepared some food for him (pbuh) and came to his house to invite him for a meal. Pointing to 'Ā'ishah, he (pbuh) asked,

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[1] The Battle of Bu'āth was a much-renowned battle which took place in the pre-Islamic era between the Aws and Khazraj tribes, and in which the Aws were victorious.

"Is she invited, too?" "No," replied the neighbor. "In that case, I can't come," he (pbuh) said. A while later the neighbor came back and invited the Prophet (pbuh) again. Again the Prophet (pbuh) asked, "Is she invited, too?" "No," the neighbor replied. "In that case," he (pbuh) said, "I can't come." When the neighbor came and invited him a third time, he (pbuh) asked again, "Is she invited, too?" "Yes," said the neighbor. And with that, the two of them (i.e., the Prophet and 'Ā'ishah) got up with such enthusiasm, they nearly pushed each other down in their rush to get to the man's house.

It may be fitting here for me to quote from a comment which I wrote on this same tradition in my book entitled, Ilá Kull Fatāt Tu'min bi-Allāh *(To Every Young Woman Who Believes in God)*, since it may help to dampen the ardor of those prone to extremes and foil the ruses of those who seek to manipulate religion for their own purposes. I wrote:

In connection with the topic of our present discussion, this tradition indicates only one thing, namely, that the Messenger of God (pbuh) took 'Ā'ishah with him to the Persian man's house. Moreover, numerous other traditions indicate that the Companions took their wives with them to the mosque and that many of them paid visits to the mothers of believers in general, and to 'Ā'ishah in particular, in order to exchange prophetic traditions, receive formal legal opinions or inquire about certain aspects of the Prophet's life. However, what contradiction is there between these facts, which in and of themselves are not in the least problematic or controversial, and the divine ruling that the woman is to conceal her physical charms from men and that when men come to make inquiries of women, they should do so "from behind a veil"?

As for the Prophet's declining to accept his Persian neighbor's invitation unless he could bring 'Ā'ishah with him, this is a clear, well-established fact; not only so, but it presents a memorable, vivid illustration of the Prophet's loving way of dealing with his wife and his intense compassion for her. Day after day would go by without a fire being lit in the Prophet's household in order to cook food; instead, all he and 'Ā'ishah would have to eat were dates and water. Under circumstances such as these, would the Messenger of God (pbuh) have been willing to leave 'Ā'ishah -- who had contented herself with living, like him (pbuh), a life of hardship -- in order to sit at a table groaning with mouth-watering food at this Persian neighbor's house? It would not have been in his nature to do such a thing! Nor was he willing to accept hospitality at the exclusion of others when, after he (pbuh) and the Companions had been digging the trench for so long that they were convulsed with hunger -- he (pbuh) received an invitation from his Companion Jābir to a meal at Jābir's home consisting of a young she-goat that would hardly have filled a large bowl.[1] Instead of accepting the invitation alone, he (pbuh) brought along with him his entire crew of Companions. Giving them priority over himself, he (pbuh) took the place of a servant behind the pot of stew and -- with a stone still bound to his stomach to keep it from growling too loudly -- he divided up the meat for them with his hand, not willing to partake of it himself until he was assured that everyone else had had enough.

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[1] Literally, the type of bowl in which a dish known as tharīd -- consisting of sopped bread, broth and meat -- was eaten [t.n.].

As for the notion that 'Ā'ishah, may God be pleased with her, accompanied the Messenger of God (pbuh) fully adorned and displaying her charms for all to see in their Persian neighbor's house, and that the guests and their hosts mixed in the way that is common nowadays among some Muslim families for whom the teachings of Islam have no authority over their way of life, there is not a single prophetic tradition in existence from which one could draw such a conclusion!

These reflections, of course, are based on the assumption that the ḥijāb had already been legislated at the time these events took place; if, on the other hand, it had not yet been imposed, there is no source of potential contradiction in the first place.

As you may be aware, women during the days of the Prophet (pbuh) would be present with men on the battlefield, tending the wounded and rendering various other types of humanitarian service, and if necessary, they would engage in battle and defend themselves as well. Muslim records in his collection of sound traditions that Umm 'Aṭīyah stated, "I went out with the Messenger of God (pbuh) to seven different battles, where it was my job to stay behind at the campsite and prepare food for the fighters." Ibn Isḥāq and Ibn Sa'd relate, based on a sound chain of transmission, that during the Battle of Ḥunayn, the Messenger of God (pbuh) turned and saw Umm Sulaym, the daughter of Mīlḥān, who was with her husband, Abū Ṭalḥah. "Umm Sulaym!" he cried. "Yes, precious Messenger of God!" she replied, "Slay those Muslims who are fleeing from the battle just as you slay those who wage war against you!" Seeing that Umm Sulaym had a dagger with her, her husband asked her, "What is this dagger you're carrying, Umm Sulaym?" She replied, "I got it for myself so that if any of those polytheists comes near me, I can slit him open with it!"[1]

In his book, Fāṭḥ al-Bārī, al-Ḥāfiẓ Ibn Ḥajar makes mention of a woman by the name of Rufaydah al-Aslamīyah who was experienced in treating the wounded. During the Battle of the Trench, she set up a tent clinic where she received the wounded for treatment and which came to bear her name. When Sa'd was wounded, the Messenger of God (pbuh) gave instructions, saying, "Keep Sa'd in Rufaydah's tent so that I can come to visit him easily."[2]

Fourth: Pursuing professions and crafts and the exercise of other skills.

In none of the periods during which Islam flourished do we find that the practice of the various professions, skills and crafts was restricted to men alone; on the contrary, Muslim women enjoyed opportunities in all of these areas. Hence, they used to buy, sell, and engage in whatever professions or crafts they wished or needed to. Women used to revive and reclaim land through planting and cultivation, and they were active in pursuing and/or overseeing the available handicrafts.

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[1] An abbreviated version of this tradition is also recorded by Muslim in his section on jihād under the heading, "Women's Going Out to Battle With Men."

[2] See Fatḥ al-Bārī, 8/419.

Al-Bukhārī records the following tradition from Sahl Ibn Sa'd, may God be pleased with him, who said, "A woman once came to us with a *burdah*. ('Do you know what a *burdah* is?' he asked his listeners. 'Yes,' they said, 'it's a cloak with embroidery around the edges.') The woman then said, 'O Messenger of God, I made this myself, and I want you to wear it.' So he (pbuh) took the garment, which he was in need of. He then came out to us wearing it, and a man said to him, 'O Messenger of God, put it on me!' 'Very well,' he (pbuh) replied. Then, after sitting with the others gathered, he (pbuh) went and took off the garment, then sent it to the man who had thus spoken. Others who were present chided the man, saying, 'You shouldn't have asked him for it when you knew that he would never refuse such a request of anyone!' In reply, the man said, 'I swear to God, I only asked him for it so that I can be wrapped in it after I die.' And in fact, it served as the man's shroud upon his deaṭh."

Al-Bukhārī records the following tradition from Jābir, may God be pleased with him, who said, "A woman who was one of the Helpers once said to the Messenger of God (pbuh), 'O Messenger of God, I have a slave boy who is a carpenter, and I want to make something for you to sit on.' 'You may do so if you wish,' the Prophet (pbuh) replied. So the woman had a pulpit made for him (pbuh). The next Friday, the Prophet (pbuh) sat down on the pulpit that had been made for him. However, when he sat down, the date palm that he had been preaching under cried out so pitifully, it nearly split in two.

So the Prophet (pbuh) got up from where he sat and put his arms around the tree, which moaned like a little boy being held in someone's arms until it grew still."

Ibn Mājah relates in his **Sunan**, and Ibn Sa'd in his Ṭabaqāt that Zaynab, wife of 'Abdullāh Ibn Mas'ūd was a skilled craftswoman. She told the Messenger of God (pbuh), "I am a woman with a craft which allows me to sell my products. Apart from the income that this brings, my husband and son have nothing. So is it permissible for me to support them?" The Prophet (pbuh) replied, "Not only is it permissible, but you merit a reward for every cent you spend on them." We are likewise told by Ibn Sa'd that during the caliphate of 'Umar Ibn al-Khāṭṭāb, a man by the name of 'Abdullāh Ibn Rabī'ah used to send perfume from Yemen to his mother, al-Rubayyi' Bint Mu'awwidh. She made it her profession to sell the perfume on credit and, once the buyers had received their salaries, she would collect what they owed her. In the same vein, we find that the well-known Helper Umm Sharīk used to open her home to emigrants and others who had no place to stay, and thus she made her living by making use of her home as a travelers' inn.[1]

It was common practice for a woman to come to Medina with wares to sell; then, if she managed to sell what she had brought, she would purchase from the market whatever she needed for herself and her family as well as goods which she could take home to sell in her village or tribal settlement. For example, we have the well-known report recorded by Ibn Hishām and Ibn Sayyid al-Nās about the Muslim woman who had come to Medina with wares which she managed to sell in the market of Banū Qaynuqā‘.[1]

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[1] Al-Iṣābah, Vol. 4, p. 445. Umm Sharīk is the person on whose authority Ibn Mājah recorded the Prophet's command that the Fātiḥah be recited at funerals.

In sum, then, it may be seen that when it was closest to its original, pristine ideals, Islam opened the way equally for men and women to offer social services and to pursue skills, crafts and professions. Moreover, whenever such opportunities expanded for men, Islam allowed them to expand for women as well. Someone might object here, saying: So then, the Islamic law is in agreement with the Western system on this issue. However, one needs to be aware that this statement is based on a serious misperception, one which is unfair to Islam and the way of life it has laid down. The reason I say this is that the Western system tends to result in the woman's being obliged to seek employment out of necessity rather than out of free choice. We have seen some of the ways in which the Western woman is forced to discount her uniqueness as a female by separating herself from her children for the sake of providing financial support for herself and them. This is the true, albeit demoralizing import of the phrase "economic liberation" by which so many gullible men and women are taken in. The Islamic system, by contrast, first ensures that the woman's needs are met, then opens the way for her to engage in social activity and service. In other words, it first provides her with a choice as to whether to seek employment or not; second, it gives her the freedom to choose the type of employment which is most suitable for her; and third, it gives her the option of working not simply in order to make money, but to serve society and contribute to its nurture and reform. This is the true, ennobling import of the words, "the man's responsibility as father or husband is to protect the woman and provide for her needs."

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[1] Banū Qaynuqā‘ were a Jewish tribe; this account goes on to tell how, while the woman was sitting in a jeweler's shop, some people started goading her to reveal her face. When she refused, the jeweler decided to tie her robe in the back in such a way that when she stood up, her private parts were exposed and she was mocked. The woman screamed, causing a Muslim man to rush in and kill the jeweler, who was a Jew. The Jews, in turn, were incited against the Muslim man and killed him as well. This and subsequent events played a major role in the Prophet's order to have Banū Qaynuqā' expelled from the Muslims' midst. See Sīrat Ibn Hishām, 2/47, Tārīkh al-Ṭabarī, 2/480, and Ṭabaqāt Ibn Sa'd, 3/67.

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As I conclude this section, I would like to ask my readers: In what I have presented and explained thus far, do I appear to be engaging in what is referred to these days as the "modernization" and "development" of Islam, thereby conforming myself to the wishes of certain partisans of newly adopted Western traditions? There are, indeed, writers and researchers today who, if they were presented with prejudicial views that charge Islam with excesses of which it is innocent, they would have no hesitations about accepting such charges as true, describing Islam as unreasonable and not in keeping with the principles of coexistence and the necessities of life. If, on the other hand, these same thinkers were presented with an image of pristine Islam, untainted by excesses and delusions and based solidly on the Qur'ān and the prophetic Sunnah (i.e., the Prophet's example in word and deed), they would say: These are just attempts to modernize and reform Islam! It is as if what such people wish to say is: Talk to us about Islam however much you like, and present as "pure" an image of it as you know how, but as for us, we're quite content without it anyway!

It is not my concern here to enter into a discussion with those who hold this peculiar position. However, I ask again: In what I have stated thus far, have I been trying to "modernize" Islam? What is commonly termed the modernization of Islam has, as far as I know, only one meaning, namely, the manipulation of Islam and the attempt to destroy it. As for those who are sincerely devoted to Islam and its propagation, what they seek to do is to trace Islam back to its roots, taking the era of the Messenger of God (pbuh) and his Companions as the model which embodies the religion and reveals it for what it truly is. This is what I have sought to do in this chapter in which I have clarified women's position in the religion given to us by God Almighty. By appealing to the texts of the Qur'an and the prophetic Sunnah, I have simply placed the reader before a polished mirror, namely, the lives of the Messenger of God (pbuh) and his Companions which serve as the exemplar for Muslims the world over. However, if what we mean by the term "modernization" is the return to the core of Islam and its pristine sources, then what we are speaking of, in fact, is the Islamization of modernity, a process in which those who are infatuated with modernity and its values repent of and abandon their pursuit of counterfeit civilizations and unwholesome impulses.

This is my hope; indeed, it is a hope shared by everyone who has insight into the true nature of things and who is unbound by the shackles of prejudice and narrow egotism.

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Chapter Three

Speaking of "Difference" and "Equality"

What is "equality"?

As we come to a discussion of equality between women and men with respect to both rights and duties, let us begin by asking: What exactly is meant by the term "equality" when used by admirers of the West, be they women or men? If the equality which such individuals seek means that men and women are cast in identical social molds such that everyone moves to a single rhythm, lives based on the same timing and follows the same regime; that bodily shapes and sizes conform to a single model and everyone performs the same, unchanging duties; and that everyone enjoys the same rights without the least variation or distinction such that differences in ability and potential no longer appear among them and they all look like identical stones embedded in perfectly uniform quadrangles -- if, I say, what such people mean by the term "equality" is this sort of literal, mechanical sameness, then the only place they can hope to find it is on some mechanized mass production line. In the human sphere, however, we find that men differ among themselves just as women differ among themselves; in fact, so do men of a single social class and women of one social class. They all share, of course, in a single humanity such that in principle, they are all bound to bear certain responsibilities and to enjoy certain rights. At the same time, however, they are bound to differ in terms of abilities, dispositions, potentials and areas of expertise. Hence, the fundamental equality among people becomes visible when we look to the common humanity in which all of them share, while the concrete dissimilarities among them point us to the divine wisdom which has caused individuals to differ on such a variety of levels.

Suppose we say that the woman is qualified to exercise all political rights; if we then divide women into one group which is fit to exercise such rights and another group which is not and divide the rights themselves into those which a woman might be able to exercise and those which she might not be able to exercise, this is the same as if we were to say that the man is qualified to exercise the various types of political rights, after which we divided men into two groups, namely, those who are fit to exercise some or all of such rights and those who are not. Additionally, if we say that the woman is qualified to give testimony in court, after which we stipulate conditions which would invalidate her testimony in certain cases or legal suits, this is the same as if we were to say that the man is qualified to give testimony in court and that the same conditions stipulated for the woman would invalidate the testimonies of many men -- perhaps all of them in some localities in certain types of trials and even, possibly, in all types.

What we are saying here is that neither maleness as such nor femaleness as such has anything to do with this process of categorization and/or elimination. Rather, the only factor which plays a role in all this is the circumstances and states which affect sometimes the woman and sometimes the man, thereby causing some individuals to be deemed unfit to give legal testimony or to perform other functions. However, as for their fundamental competence insofar as they are men or women, this exists in all cases regardless of variable circumstances and conditions.

The debate stirred up by those who term themselves "women's rights advocates" -- by their claim that Islam has been unjust to women and has promoted a view of women as inferior -- revolves around a confusion between the fundamental competence with which both men and women alike have been endowed, on one hand, and the various and sundry non-essential conditions to which both genders are subject, on the other. What these people fail to realize is that if they are going to debate on the basis of this confusion, they have to say that Islam has been unjust not only to women, but to men as well, and that it has fostered an inferior view of men, too, and not only of women.

We have spoken thus far in general terms in preparation for a more detailed treatment of particular, controversial aspects of this issue -- aspects which are exploited by those bent on fabricating untruths about Islam as evidence that Islamic law has not treated men and women equally with respect to their rights and duties, but rather, has deprived women of many civil, and other, rights while allowing men to enjoy all such rights with virtually no restrictions. What we hope to demonstrate in what follows is that the absolute equality which is advocated by fans of Western civilization would be exceedingly difficult to achieve in any society. Not only so, but if this type of unqualified, literal equality were realized, society would disintegrate, its members scattered by a sense of alienation and discord, while bridges of communication and cooperation would collapse.

Nevertheless, we must affirm at the same time that the equality with which God has endowed human beings on the basis of human capabilities and potentials and their commonly shared inclinations, personal traits and talents is a recognized reality among men, among women, and between men and women. Hence, our discussion now will deal with the various issues which tend to be the most controversial and which, in some people's view, convict Islamic law of giving preference to men over women with respect to many rights and giving men an advantage over women in connection with some duties as well. It is my hope that by reflecting on what we say on subsequent pages, my readers will come to see that the basis for what some take to be the preferential treatment of men in any of the particulars of the issues to be discussed below is not maleness or femaleness as such but rather, temporary, non-essential determinants and circumstances.

1- The meaning of the term "guardianship" (qiwāmah)

The basis for this concept in Islam is the verse from the Qur'an which reads, "Men are in charge of women by [right of] what Allāh has given one over the other and what they spend [for maintenance] from their wealth" [Al-Nisā' (Women) 4: 34]. There are some who say that this "guardianship" by which God has distinguished the man and to which He has subjected the woman involves injustice toward the woman, and that it provides patent evidence of the absence of the equality between men and women which is alleged to exist in the precepts of Islamic law.

However, things are not as such people imagine them to be. Let us make this clear through the following points:

One: The notion of "guardianship" -- which is the primary source of this misperception about Islam -- refers to a position of responsibility involving leadership and management. We say, for example, "So-and-so is the head or manager (Arabic, qawwām) of this household, institution, establishment, etc.," meaning that this person is responsible for giving directions and for managing and supervising its affairs.

Given what we have just said, one might wonder: Why is it that the divine Lawgiver would have established the function of guardianship -- that is, headship and management -- in a household, an institution, a center, or any other organization, for that matter? Is this function a position of eminence and distinction which the Lawgiver confers as a robe of honor, as it were, upon those who enjoy preference and a place of honor in His sight? And does the man enjoy divine preference such that he merits this "robe of honor" whereas the woman does not?

It goes without saying, of course, that this is far from the case. Rather, the reason for the Lawgiver's having established the position of guardianship is His keen concern for the spirit of order to prevail in all of society, in all situations and under all circumstances. Moreover, order prevails in a society by virtue of the checks and controls provided by the designation of responsibility, while responsibility is only translated into concrete action with the presence of a "head" on whose shoulders the burden of management and supervision rests. The divine concern for order to reign at all times may be seen clearly in the words of the Prophet (pbuh), "If three people are on a journey together, let them appoint one of their number to be in charge of their affairs."[1]

As we all know, society is composed of family units; this being the case, we should also realize that the mainstay of social order -- with all this implies by way of a spirit of cooperation and good management -- is the order which should prevail in the family. Once order in the family is intact, it emanates outward to all spheres of society. Moreover, there can be no doubt that the divine Lawgiver, who takes care to ensure that not even three people should go out to perform some task together without setting up one member of the group as their leader, must be all the more concerned that not even an hour should go by in the life of a family or household without their having a "head" whose duty it is to take care of their concerns and manage their affairs.

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[1] This is the wording of the version recorded by al-Bayhaqī, Aḥmad, al-Ḥākim and al-Dārquṭnī on the authority of Abū Hurayrah. Abū Dāwūd records the same tradition on the authority of Abū Hurayrah and Abū Sa'īd al-Khudrī but with a slightly different wording, namely, "If three people go out, let them. . . ."

A consideration of the Prophet's statement, "If three people are on a journey together, let them appoint one of their number to be in charge of their affairs" shows clearly that the one who is chosen to be the group's leader is not necessarily the best person among them or someone who enjoys the greatest favor with God Almighty. Rather, what matters is simply that he or she be up to the responsibility he or she has been given and that he or she be competent to manage the group's affairs in a sound manner.

Hence, the guardianship over the family based on the order and law of Islam is a guardianship of nurture and management, not one of control and domination. Nor is this guardianship an indication of some intrinsic superiority over others in God's sight by which the "head" or "manager" is distinguished. Rather, it should simply be an indication of competence on the part of the person bearing the burdens of this responsibility.

Two: Someone might say: In this case, why did the divine Lawgiver place this guardianship -- that is, management of the family's affairs -- in the man's hands automatically? Why does He not leave it to the members of the family to decide who would be most qualified to perform this function? And why is the choice of the man to fulfill this task justified with the words, "by [right of] what Allāh has given one over the other"? After all, this phrase amounts to an almost explicit declaration of men's intrinsic superiority to women, without regard for temporary conditions and circumstances.

In answer to such questions let us state, first of all, that the notion that men are intrinsically superior to women stands in clear opposition to what is stated explicitly in numerous passages of the Qur'an. The divine revelation declares definitively that women and men are equal in their capacity to draw near to God, and that the degree to which they succeed in this quest varies not by virtue of gender, but rather, depending on the works of righteousness which they perform in the desire to meet with God's favor. The following passages from the Qur'an will make this clear. God states:

"And their Lord responded to them, 'Never will I allow to be lost the work of any worker among you, whether male or female; you are of one another" [Āl 'Imrān (The House of 'Imrān) 3: 195].

"Whoever does righteousness, whether male or female, while he is a believer -- We will surely cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do" [Al-Naḥl (The Bee) 16: 97].

"And whoever does righteous deeds, whether male or female, while being a believer -- those will enter Paradise and will not be wronged [even as much as] the speck on a date seed " [Al-Nisā' (Women) 4: 124].

"Indeed, the Muslim men and Muslim women, the believing men and believing women, the obedient men and obedient women, the truthful men and truthful women, the patient men and patient women, the humble men and humble women, the charitable men and charitable women, the fasting men and fasting women, the men who guard their private parts and the women who do so, and the men who remember Allāh often and the women who do so -- for them Allāh has prepared forgiveness and a great reward" [Al-Aḥzāb (The Confederates) 33: 35].

In a single, decisive declaration, God Almighty drops from consideration differences of gender, nationality, tribe and ethnic origin with respect to one's closeness to God or distance from Him, and in so doing, He reaffirms what He has stated in numerous other passages of the divine revelation. He says: "O mankind, indeed We have created You from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of God is the most righteous of you" [Al-Ḥujurāt (The Inner Apartments) 49: 13].

In light of the foregoing, is it possible to interpret the phrase, "by [right of] what Allāh has given one over the other" to mean that the man is superior to the woman for the simple reason that he is a man and she is a woman? Would it be possible, even if we resorted to a bit of disingenuousness, to arrive at an interpretation which so flatly contradicts the

Qur'anic passages we have just quoted?! On the contrary, the unambiguous message of the Book of God reveals this notion to be nothing but an illusion; hence, it cannot possibly represent a correct understanding of the meaning of the phrase, "by [right of] what Allāh has given one over the other." Rather, this phrase describes a precedence given to the man in proportion to the task he has been assigned and the burdens he has been given to bear.

In clarification of this point, it should be noted that managing the family's affairs, watching over its members and protecting them from whatever dangers might threaten their well-being -- which includes the provision of financial support and whatever else is required for them to live a life of dignity -- is one of the most significant and sacred of all social functions. However, it is no different, in essence, from the equally significant responsibility of caring for infants and young children as they grow to maturity and maintaining an atmosphere in the home which is conducive to marital contentment.

And which of the spouses, do you suppose, is the more capable of carrying out the former function in the majority of cases? I think we would all agree that if, in the dark of the night, family members detected the presence of a thief trying to break in -- or, similarly, if someone with evil intentions came knocking at the door, or if an enemy or someone seeking revenge were to storm into the house -- the husband and father would be the one to confront the unanticipated danger, while the wife-mother would be more likely to repair to some safe, dark corner of the house. It is possible, of course, to find exceptions to this rule; however, the rule is of more significance in this context than scattered exceptions.

The prevailing reality in our [Eastern] societies is that the young man is the one to shoulder the responsibilities entailed in having a family, beginning with the dowry he gives the bride when concluding the marriage contract, the provision of a home for the family to live in, and sufficient income to ensure a life of dignity for both his wife and their children and to cover whatever expenses are required for the family's survival and growth. With regard to customs such as these, virtually all are in agreement regardless of how they might differ on other issues, be they religious, philosophical or otherwise. Hence, one might ask: Are the Lawgiver's words concerning this "guardianship" a command which we are to obey, or the description of an existing reality which the majority of people already conform to voluntarily? If, in fact, these words are descriptive rather than prescriptive, one might ask: Then what is to prevent us from changing this reality? In answer to this question, I say: As for the reality of our maleness and femaleness, neither you nor I can do anything to change it; rather, it falls within the province of the One who placed within us the qualities specific to male and female, and there can be no doubt that in designing us in this fashion, as it were, God was acting on the basis of a profound wisdom which no sensible person can fail to perceive, regardless of his or her creed or philosophy.

As for the matter of holding the husband, but not the wife, accountable for the responsibilities involved in building and maintaining a family, this is based on the guarantees which

God has legislated for the purpose of preserving and protecting the wife's dignity and her uniqueness as a woman. If, for example, the woman were the one to pursue the man and offer him a dowry, this would require her to be the one to ask for his hand in marriage -- a situation which would undoubtedly be a source of humiliation and discomfort to her. Similarly, if the married woman were responsible for supporting herself financially -- as occurs sometimes in Western societies -- she would have no choice but to accept whatever sort of employment would provide her with daily sustenance rather than having a choice as to which type of work would be the most fitting and convenient for her. Such a situation, however, can be devastating to the wife's sense of womanliness and her divinely given delicacy and gentleness. It will not do to base our judgments in this area on those women who have had the good fortune to find appropriate, comfortable employment; rather, we must base them on the situations of the numerous women in the West who have found nothing available but heavy, taxing labor. It would be folly for us to sacrifice the vast majority who struggle under the burden of exhausting jobs for the sake of a small minority who have had the good fortune to find comfortable, suitable employment. You will recall the statement which I quoted in Chapter Two by physician and writer Esther Vilar in which she replies to those who press women into unhappy situations under the deceptive pretext of "economic liberation" and "self-realization."

This is why Islam has freed the woman from the responsibility to work, yet without forbidding her to do so. It frees her from this responsibility lest she be obliged to work out of necessity; at the same time, it grants her the option to work, thereby providing her with a way to achieve a more comfortable life as well as to choose the type of employment which is most fitting and convenient for her. Given this divinely granted freedom under Islamic law, the Muslim woman is expected to adhere to the requirements of the scale of priorities discussed above, which involves placing higher priority on the task of nurturing her family on the domestic front than on the desire to be employed and earn money on the professional front.

Thus it is that the Qur'anic statement, "Men are in charge of women", rather than being a ruling to be imposed, is a description of a reality which imposes itself.

In Western societies we find, by contrast, that the general rule is for the woman to be burdened with the responsibility to work outside the home in order to provide the financial support she needs, the result of which is a kind of enslavement. Not only so, but despite her willingness to pay this high price in exchange for her financial security, she is still not assured of the guardianship which she has the right to expect from the man. Rather, all she has to show for her sacrifice is the disintegration of the familial edifice into little more than a ruin in the wake of the spouses' race to put bread on the table, as it were. And despite all this, the husband often remains the partner with the most influence and control.

What I find even more astonishing is that there are gullible people who, intoxicated by blind infatuation with such "modern" ways, dream of seeing the woman fall into the very type of enslavement of which I speak. Even women themselves seem anxious to be bound by the necessity to work while the husband is freed from the responsibility to support either his wife or her children. The result, however, is that the family is shipwrecked, and for no other reason than that the husband and wife were caught up in a dream that was bound never to be realized. After all, as we have explained, the reality embodied in the term "guardianship" is imposed by men's and women's very natures. Moreover, these natures will never change even if the woman happens to be a millionaire, or even if the man falls into such penury that he doesn't know where his next meal is coming from.

This said, let us return to the point with which we began; namely, that the "guardianship" of which the divine revelation speaks is a guardianship of nurture and guidance, not of domination and control, and that the reason for the man's being chosen for the role of "guardian" is simply his greater fitness for the tasks involved on one hand, and on the other hand, the fact that he has been given the responsibility to provide financial support for his wife and family. After all, the international order says: The one who pays, oversees.

What we find then is that if we "liberate" the woman from this type of guardianship by freeing the man from his responsibility to support her, we end up placing her in shackles instead -- the "shackles" being the requirements of working regardless of how tiring or intolerable such work happens to be. In so doing, we cast the sanctity and cohesion of the family to the winds -- winds which, with time, will leave nothing intact. Worse still, what had once been a cooperative, managerial guardianship, as it were, is likely to turn into a struggle to see who will dominate whom. The reasons for this transformation are well known to those who have engaged in any close observation of the situation of Western women as they suffer the consequences of shattered families. What a woman hopes to find in a husband is not simply a sex partner, but someone who will nurture and protect her. This being the case, isn't the guardianship which God has instituted exactly what a woman dreams of finding in a husband?

Returning now to the truth with which we began this discussion, let us reemphasize that the basis for the man's "guardianship" in the family is not some preferential status which he happens to enjoy in the sight of God and from which the woman is excluded; rather, it grows out of what might be termed an "interest-based precedence" based on the correspondence which exists between the man's traits and capabilities and the duty to support his family financially, emotionally and spiritually. Conversely, the woman's being assigned the role of caregiver and the lion's share of responsibility for children's upbringing and education is not based on some intrinsic superiority of the woman over the man; rather, it proceeds from the same type of "interest-based precedence" based on the correspondence which exists between these responsibilities and the woman's abilities and strengths. Nevertheless, lest we fall back into thinking that the man's and woman's respective tasks are given to them due to some inherent superiority on the part of either males or females, we should remember that many a man has been entrusted with the tasks entailed by this guardianship despite his being the most profligate, godless of people, while many a woman has lived in the shadow of such a man's "guardianship" despite her being the most virtuous, noble of all people and the most worthy of God's favor.

Those who realize the meaning and value of order in human life by virtue of having been brought up in an environment in which such order was maintained will perceive the truth in what I am saying. This perception will, in turn, be reflected in the way they deal with life's vicissitudes and challenges.

It remains to be noted here that there are some people who might ask: What is the true meaning of the prophetic tradition which says, "Never have I seen a woman deficient in common sense and religion more adept than the likes of one of you at stealing away the heart of a prudent man!"? In reply, I say: We shall come to a discussion of this tradition and others like it, God willing, in a separate section devoted to this topic.

2 - Inheritance

One of the most oft-repeated criticisms of Islam in the context of a discussion of equality between men and women is based on the following statement by God Almighty: "Allāh instructs you concerning your children [i.e., their portions of inheritance]: for the male, what is equal to the share of two females ...." [Al-Nisā' (Women) 4: 11]. These words are viewed as evidence against Islamic law, which has thus been caught red-handed, as it were, in the act of discriminating between the man and the woman in regard to the most fundamental right to which she is entitled, namely, the right to inherit.

Despite the misapprehension revealed by such people's interpretation of these words from the divine revelation, and despite the fact that such critiques are based on ignorance of the sound, precise meaning of "equality", this criticism tends to be repeated in an unthinking, parrot-like fashion without any consideration of what has been said in reply to it. Even so, let us now reexamine the truth being conveyed in the verse quoted above, making clear once again that it poses no opposition or contradiction of any kind to the principle of genuine equality between men and women.

* * *

The primary misconception involved in people's understanding of this verse

The proponents of this criticism understand the words, "for the male, what is equal to the share of two females..." to be an all-encompassing law of inheritance in Islam. In fact, those who voice this criticism, as well as many lay people who lack a deep understanding of Islam, have come to take this phrase as an unyielding social code imposed by the religion with respect to every possible issue or problem and under all circumstances! In point of fact, however, this verse establishes the ruling in question only in connection with the inheritance of a deceased person's children, whereas other heirs, be they male or female, have other explicit rulings which apply to them in particular and in most of which the share inherited by males and females is equal. Note the following examples:

If the deceased leaves children, a mother and a father, each of his parents inherits one-sixth of the estate without any distinction between them based on gender and without any regard for the supposedly unbending rule of "for the male, what is equal to the share of two females..." This ruling is based on the phrase, "And for one's parents, to each one of them is a sixth of his estate ...." [Al-Nisā' (Women) 4: 11].

If the deceased leaves a maternal brother and a maternal sister and if there is no one present who would render either of them unqualified to inherit, then one-sixth of the estate goes to the brother and another sixth goes to the sister. This ruling, which likewise makes no distinction between the heirs on the basis of gender, is based on the phrase, “... but if [the deceased] has a brother or a sister, then for each one of them is a sixth” [Al-Nisā’ (Women) 4: 20-21].

If the deceased leaves two or more maternal sisters and two or more maternal brothers, the brothers together inherit one-third, while the sisters together inherit another third without any distinction made on the basis of their maleness and femaleness respectively, and without regard for what some take to be the all-encompassing rule of, “for the male, what is equal to the share of two females...” This ruling is based on the words, “But if they are more than that, they share a third ....” [Al-Nisā’ (Women) 4: 12].

If a woman dies and leaves her husband and a daughter, the daughter inherits one-half of her mother’s bequest while the girl’s father inherits one-fourth; in other words, the female in this case inherits twice as much as the male.

If a man dies leaving a wife, two daughters and a brother, his wife inherits one-eighth of his estate, the two daughters inherit two-thirds, and whatever is left goes to their paternal uncle, who is the deceased’s brother. Hence, each of the daughters of the deceased inherits more than her paternal uncle, since each daughter’s share amounts to 8/24 of the estate, while the uncle’s share comes to 5/24 of the estate.

This is the ruling which was given by the Messenger of God (pbuh) when he was approached by the wife of Sa‘d Ibn al-Rabī‘ with her two daughters. She said to him (pbuh), “O

Messenger of God, these are the two daughters of Sa‘d Ibn al-Rabī‘, who was martyred in the Battle of Uḥud. After their father died, their paternal uncle took all the money their father had left and he now refuses to give them any of it. However, they won't be able to marry without money." The Prophet (pbuh) replied, "God will issue a ruling on this matter." It was after this that the Qur'anic verses dealing with inheritance were revealed. The Messenger of God (pbuh) then sent to the girls' uncle, saying, "Give Sa‘d's daughters two-thirds of their father's estate and give one-eighth to their mother; as for what remains, it belongs to you."[1]

It thus becomes clear that, contrary to what some people imagine, the words of the divine revelation, "for the male, what is equal to the share of two females..." are not a rule which applies across the board whenever a male and a female are to receive shares of an inheritance. Rather, this rule applies only in a situation where a number of children are to receive shares of the inheritance left by a deceased parent. This may be seen clearly from the statement which precedes these words, namely, "Allāh instructs you concerning your children [i.e., their portions of inheritance]...." Hence, if the heirs include male and female children of the deceased, they all receive shares of what remains after those to whom Islamic law has allotted fixed shares of the inheritance have received what is due them, with the male children being allotted twice the share allotted to the females. In other words, any time the heirs of a deceased person's estate include at least one brother and one sister, both of whom are either siblings or children of the deceased, they are to divide what remains of the estate following the distribution of all fixed shares of the inheritance; moreover, the brother is to receive twice his sister's share, whether they are siblings or children of the deceased.

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[1] Narrated by al-Tirmidhī.

What has been taken into consideration by the Lawgiver in this ruling is the situation of the heir and his or her degree of need, as well as the relationship between the heir and the person from whom he or she is to inherit, whether male or female. Thus, for example, when a son reaches maturity and acquires the capacity to earn money, he becomes responsible for providing financial support for his parents if they are in need of such support. In addition, he has the responsibility to support his wife, including payment of a dowry as they begin their married life. This man's sister, on the other hand, is not required to shoulder these responsibilities. Hence, a fair inheritance settlement involving a brother and a sister whose father has died requires: (1) that the brother and sister take part in dividing up what remains of the bequest after all fixed shares have been distributed, and (2) that the sister receive one-half of whatever share falls to her brother rather than her original fixed share, namely, one-half.[1]

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[1] If the girl were her parents' only daughter and if she had no brothers, her fixed portion would be one-half; this is based on the phrase, "and if she is alone, she is to receive one-half" [Al-Nisā' (Women) 4: 11]. [t.n.]

When the opposite situation arises, namely, when a son dies leaving his parents behind as heirs, the parents will, during their son's lifetime, have benefited equally from the income he used to provide for them. This assumes, of course, that the son was in a reasonably good financial situation and that his father was no longer able to earn money, which is generally the case in this type of situation. Given these circumstances, a fair distribution of the son's estate requires that the father and the mother receive equal shares of the inheritance.

The same ruling applies when the deceased leaves a brother and a sister from his mother's side and when there are no surviving relatives who are closer to the deceased than this brother and sister, such as a son or a full brother. The reason for this is that neither the brother nor the sister was responsible for providing financial support for the deceased during his lifetime; hence, their relationship to the deceased, financially speaking, will have been the same. Consequently, a fair distribution of the deceased brother's bequest requires that both siblings receive equal shares; moreover, this ruling applies whether the heirs are a group of males and females or a single brother and a single sister.

It should now be clear that neither maleness nor femaleness as such plays any role in the differences which may occur in the shares of an inheritance. If they did, the ruling conveyed in the words, "for the male, what is equal to the share of two females..." would apply across the board and every male heir would receive twice as much as every female heir; however, as the examples we have adduced clearly show, this is not the case. Rather, we have seen that the rulings on shares of an inheritance rest on other foundations, namely: (1) the degree of need faced by the heir, and (2) the type of relationship which existed between him/her and the deceased. When these two factors require that the male's share be greater than the female's, this is reflected in the ruling; if, conversely, these considerations require that the female's share be greater than the male's, the ruling will reflect this fact. Moreover, the ruling will be different still if the factors mentioned here require that the male's and female's shares be equal.

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Does the ruling change if a woman has become financially independent through employment or otherwise?

At this point some people might say: The rulings you have described may have made sense at a time when women were still isolated from the workplace. As things stand now, however, the woman has come to participate with the man in virtually all spheres of employment. This being the case, what is the justification for a son's bearing sole responsibility for providing financial support for his aging father who is no longer able to earn a living? What is to prevent his sister, who earns a salary just as he does, from sharing this responsibility with him? For that matter, why should the groom be solely responsible for expenses relating to marriage, including the dowry, preparing a home for the couple to live in and daily living expenses, as long as his wife is working and earning a salary along with him? When, as we observe nowadays in numerous situations and societies, the woman and the man have come to share equally in gains and losses, as it were, this means that there is no longer any basis for the application of the principle that the male is entitled to "what is equal to the share of two females" in some cases of inheritance.

In reply to this objection, it should be noted that with regard to this issue or situation, the Lawgiver distinguishes between moral incentive on one hand, and legal obligation on the other. When we think in terms of moral incentive, it can be seen that Islamic law opens the way for the woman -- be she a daughter, a wife, or a sister -- to share with her brother, her husband and/or other male relatives in all aspects of the process of providing financial support. In response to such a moral incentive, the woman is invited to help alleviate the burdens being shouldered by her husband, both in connection with the dowry she requests and in the area of ongoing household expenses, whether by contributing money on her own part or by voluntarily foregoing certain comforts or conveniences which are her right. By virtue of the same moral impetus, she is encouraged to contribute to the support of her parents and other relatives to the extent that she is able.

Both Muslim and al-Bukhārī record a tradition going back to Zaynab al-Thaqafiyah, wife of 'Abdullāh Ibn Mas'ūd, who reported that she had heard the Messenger of God (pbuh) address women with the words, "O women, give in charity even if [it means giving away some] of your jewelry...." She says, "After this, I went back to 'Abdullāh Ibn Mas'ūd and said to him, 'You are a man possessed of little wealth, and the Messenger of God (pbuh) has commanded us to give in charity. So why don't you go to him and ask him if I would be permitted to give in charity to you? If he answers in the negative, I'll find other people to give my charity to.' 'Abdullāh replied, saying, 'Why don't you ask him yourself?' So I went to see the Messenger of God (pbuh), and when I arrived at his home I found a woman of the Helpers waiting at his door to ask him the same question. It happened at the time she and I arrived that the Prophet (pbuh) had entered an awe-filled trance of the sort that came over him when he was about to receive a revelation. Consequently, Bilāl came out to speak with us instead, and we said to him, 'Please go to the Messenger of God (pbuh) and inform him that two women have come to ask him whether their duty to give in charity can be fulfilled by their giving to their husbands and to orphans directly in their care. However, don't tell him who we are.' Bilāl then went in and spoke with the Messenger of God (pbuh) concerning our question. In response, the Messenger of God (pbuh) asked, 'Who are these two women?' 'A woman of the Helpers, and Zaynab.' 'Which Zaynab do you mean?' he (pbuh) asked. 'Zaynab the wife of 'Abdullāh,' replied Bilāl. The Prophet (pbuh) then told him, 'They will receive two rewards: one for kindness to their relatives, and another for the giving of charity.'"

However, it goes without saying that the value of the moral incentive only becomes apparent in a climate of freedom and choice. Hence, requiring the woman to provide financial support for her husband, her father or anyone else is not likely to reveal the extent of her generosity. By the same token, kindling the woman's moral impulses cannot be treated as a substitute for the duty which is imposed on the husband, father and son to provide financial support for others in the family, since there is no guarantee that all wives will feel such a moral impetus.

If, on the other hand, the divine Lawgiver had imposed on wives, mothers, daughters, sisters, etc. the legal obligation to provide financial support for their households, this would mean obliging the woman to go out in search of gainful employment; this, in turn, would cause her to fall into the difficulties which are faced by many Western women due to the necessity to work outside the home. In order to protect the woman from this difficulty, the seriousness of which I have sought to make clear to my readers, she must be assured at all times of the fact that all she needs for her daily support and sustenance will be provided for in the context of a life of dignity which she is entitled to live without anxiety. As we have seen, Islam provides this protection by making a girl's or woman's father responsible for her financial support as long as she is living under his roof, then by making her husband responsible for her financial support once she enters married life. If, despite this assured provision, she wishes to go out in search of paid employment either in order to save up some money or simply for the sake of the activity it involves, the opportunity to do so will be open before her, yet without her being forced by necessity to accept types of work which would be unsuitable or uncomfortable and/or to neglect her domestic responsibilities of raising her children and tending to her husband's needs.

In other words, by opening before her the opportunity to engage in legitimate, useful employment, Islamic law provides the woman with economic freedom. Moreover, by guaranteeing that the woman's financial needs will be met by her father or her husband, it grants her the freedom to choose whether or not to work outside the home and, if she decides to work outside the home, the freedom to select the type of job which will be the most suitable and convenient and the most conducive to the life of dignity to which she is entitled. Without the protection of Islamic law, however, we find that the woman may be trapped, in the name of economic freedom, into accepting whatever types of employment are available regardless of whether or not they are appropriate for her. In the name of this same "economic freedom", the woman is given no choice but to leave home every morning, leaving behind her children and her domestic responsibilities without having any freedom to decide for herself what is most important in her life and most worthy of her time and effort.

As for the "double freedom" which Islamic law affords the woman, it can only be achieved by assigning the husband the responsibility of giving his wife a dowry when they first begin their married life and of providing financially for her and their children as time goes on. With this foundation in place, she is then free to seek out whatever employment she finds to be suitable while, at the same time, adhering to the scale of priorities discussed earlier pertaining to the various responsibilities for which she is accountable as a wife and mother. Given this situation, it follows that if children are joint heirs to a deceased parent, a fair settlement will entail granting the male children shares which are twice as large as those given to the females. However, as we saw earlier through the examples which we cited of other situations relating to inheritance, male and female heirs may receive equal shares and, in some cases, females may even receive larger shares than males.

Despite these considerations, however, there are people who overlook the value of Islamic law as reflected in the way it has honored and liberated the woman, preserving her rights and her uniqueness as a female. At the same time, such people overlook the difficulties faced by women in non-Muslim societies by virtue of systems which tend to lock them into the necessity of working for a living, with or without dignity and with or without a sense that their uniqueness as women is being given its full due.

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3 - "Rebelliousness"

The situation and the complication

The situation being referred to here is one in which, without any excuse or legal justification, a wife ceases trying to please her husband in any way. As for the complication, it consists in the fact that Islamic law has authorized the husband to deal with "rebelliousness" on his wife's part in ways which it has not authorized the wife to deal with such "rebelliousness" on the part of her husband.

Specifically, if a wife acts and/or speaks in a manner which reflects a spirit of non-cooperation and defiance toward her husband, the husband is given three graduated means by which to deal with this. The first means consists in words of advice and admonition spoken in gentleness and affection. The second is to begin sleeping separately from his wife rather than sharing the same bed with her. The third is to strike her lightly, that is, in a way that is meant not to cause her pain, but simply to alarm her. However, it is a recognized principle of Islamic law that a husband is not permitted to resort to the second means until he has exhausted the first, that is, after having spoken calmly with his wife about the problem without meeting with any positive response; similarly, he may not resort to the third means until after he has tried the second and despaired of solving the problem in this way.

It is a fact, of course, that just as a wife can be "rebellious", so can a husband, that is, by treating his wife in a manner which violates the rules of conduct clearly set forth in Islamic law. However, unlike the husband whose wife becomes uncooperative and refractory, a wife whose husband becomes contrary and abusive is only permitted under Islamic law to employ the first means, that is, advice and admonition. In other words, even if she finds that her words of counsel and exhortation are falling on deaf ears, she may not resort to the second or third strategies mentioned above.[1]

The problem which arises in this connection is that the disparity between the rulings on how the husband may deal with rebelliousness on his wife's part and the rulings on how a wife may deal with such behavior on her husband's part involves an apparent violation of the equality between men and women which Islamic law aims to promote and preserve.

What would happen if the sought-after equality were achieved?

Let me begin here by stating what may or may not be obvious to my readers, namely, that the equality between men and women with respect to the dignity to which they are entitled does not require that the means by which this dignity is protected and preserved be the same for men and women. However, before discussing this statement further we need to ask: Given that under Islamic law, men and women are to be accorded the same dignity without distinction, what would happen if the same methods and means were employed to protect the dignity of both men and women? That is, what would happen if the divine Lawgiver, may His majesty be exalted, permitted the wife to strike a husband whose treatment of her was in violation of God's commands? What would be the result if the wife exercised this same God-given authority when she found that neither guidance and counsel nor refusing to share her husband's bed with him had failed to bring about the hoped-for resolution of the situation?

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[1] The wife may resort to the second strategy if her husband's "rebelliousness" takes the form of some act of disobedience to Islamic law which he commits in the bed which they share, for example, seeking to have sexual relations with her during her menstrual period or urging her to let him perform anal intercourse. However, if she is able to prevent him from engaging in such behavior without resorting to this measure, she is not permitted to resort to it.

It should be clear to us as human beings -- as it is, without a doubt, to the God who created us and endowed men and women with the qualities unique to each gender -- that if a woman were to strike her refractory husband as a means of disciplining him, his "manliness" might be transformed into a fierce savagery with nothing to keep it in check. If this took place, the husband might light into his wife with such ferocity that by the time he was finished with her, she would be shattered at best and, at worst, no longer alive. In other words, as a result of her attempt at "disciplining" her wayward husband she will, in all likelihood, have offered her life as a sacrifice for the sake of equality -- not for the sake of the dignity with which God has endowed both men and women in equal measure, but rather, simply for the sake of being able to employ the same means as the man when protecting and defending this dignity. Hence, one might ask: Does this type of equality -- for which there is no need in the first place -- justify the woman's offering up her life as a sacrifice for its sake?

In answer to this question, Islamic law holds that an offending, abusive husband must receive the punishment he deserves; however, the means by which he is punished must not expose his wife to any danger or harm. Therefore, Islamic law guarantees the wife's protection in such a situation by setting up the judge in an Islamic court as the wife's proxy in that it is the judge who undertakes to defend her rights and to impose the required penalty on her husband. Not only so, but the punishment meted out to the husband may go beyond merely being struck to include imprisonment and/or other penalties as well. Hence, whenever there is reason to believe that the party who has been wronged is unable to come to his/her own defense or that an attempt at self-defense would expose this party to further harm, Islamic law brings punishment to bear on those to whom it is due by assigning this task to the judiciary authority and to relevant enforcement agencies.

Should objections be made to the legitimacy of striking one's wife?

There are some people who decry the fact that the Qur'an gives the husband the right to strike a "rebellious" wife despite the fact that this right is reserved solely for the husband who has first sought to solve the problem through advice and admonition, then by declining to sleep with her in the same bed. Those with an ax to grind against Islam may take this right as a justification for vilifying Islam and its attitude toward the woman. Where, then, does the truth lie in all of this?

What we must first realize is that under Islamic law, both the husband and the wife are subject to essentially the same punishment for the offense of "rebelliousness." Nevertheless, Islamic law has established different ways of enforcing this penalty against the husband and the wife respectively. Hence, whereas it enables the husband to apply this penalty to his wife given certain conditions and limitations, it enables no one but the judge to apply the relevant penalty to the husband, also given conditions and limitations; moreover, as we have mentioned, the basis for this distinction is the Islamic law's concern to protect the woman from harm. As we have stated, the utmost equality exists between the man and the woman with respect to the punishment they merit if it is proven that they, in fact, have been guilty of this kind of violation. Hence, the difference between them has to do simply with the means which should be employed in order for this equality to be realized and affirmed.

What difficulty is posed by penalties legislated by civil law for both men and women, granting that both men and women might commit acts which merit such punishments? Is there any society on earth in which there are prisons for only men, and none for women? Are there cities or states anywhere in the world whose laws stipulate punishments to which men are subject but not women?

We should be aware that the penalty of being struck, whether it is inflicted on a woman or a man, does not offend against or denigrate his or her humanity in any way. Rather, this penalty is directed against the unacceptable perversity which itself is an affront to the humanity of the recalcitrant husband or wife. Note, for example, how the Qur'an instructs the husband to address his wife's "better side" as it were with advice and admonition, which is the ideal human approach to solving any problem which arises between two parties. Note also how it instructs him, in the event that dialogue leads nowhere, to seek a positive response on his wife's part by a unique type of partial abandonment -- which is actually closer to banter than it is to actual rejection -- namely, refraining from sharing a bed with her. Bear in mind, however, that this second tactic is to be pursued by the husband simultaneously with continued attempts to communicate with his wife and to discuss the problem with her. It is only when these two tactics together prove to be of no effect in arousing a cooperative response -- that is, when the waywardness that has come over her has gained the upper hand over the reasonable, compassionate side of her being -- that the husband is permitted to strike his wife lightly; moreover, when he does so, the purpose is to restrain the force of her negativity and to defend her vanquished humanity.

As for those who insist on finding fault with these gradually intensifying steps in the process of dealing with this type of recalcitrance or moral perversity -- something which both women and men might slip into from time to time -- they should try to picture the entire situation which the Qur'an is addressing here before making it the butt of unthinking, arbitrary criticism. The situation for which the Qur'anic verses quoted above are prescribing this graduated treatment is as follows:

First: The wife has rebelled against the cooperative human approach to the marital relationship, which cannot function without an atmosphere of mutual loyalty, sincerity and obedience. Hence, the scenario of which we are speaking is not that of an oppressed wife who, after living under the iron rule of an unjust, domineering husband, has been driven at last to rebel in defense of her dignity and rights.

Second: In addition to her reckless defiance, the wife has deliberately sabotaged the program of dialogue, shared loyalty and respect; in addition, she then persists in her resistance despite the husband's repeated attempts to appeal to her reason and common sense in a spirit of mutuality.

Third: The wife goes on clinging to her rejection of the principle of cooperation and mutual consent even after the husband has resorted to emotional and sexual pressure combined, being a cordial husband by day and a stranger, as it were, by night.

This is the type of situation which the Qur'an has allowed a husband to deal with by striking his wife in a manner which, though not very painful, is nevertheless meant to frighten her. Do you think that this manner of treating such a problem will belittle the woman and wound her self-esteem? Or is it, rather, a means of defending her true dignity and humanity in the face of the foolhardy antagonism which has gotten the better of her? At the same time, however, let it be remembered that both the wife and the husband are equally subject to this penalty when their words and actions prove unresponsive to other, gentler approaches.

What, then, is to be said about the problem of “wife-beating” in non-Islamic families and societies? In situations such as these, the recalcitrance or perversity of which we are speaking is found in the person doing the striking, whereas what we find in the woman being struck is injured humanity. In an Islamic milieu, that which is being “punished” in the woman is an obstinate rebellion which has gone on for too long. Consequently, it is a rare occurrence in truly Islamic households. In a non-Islamic family or society, by contrast, what is being “punished” in the woman may simply be the fact that she has pursued that which she is entitled to as a human being; as a result, the strikes she suffers are an affliction which spreads and grows steadily worse. In this connection, I remind my reader of the report in which an American author stated that, “Every 12 seconds in the United States, a woman is beaten, in some cases to the point of death, by a husband or lover.”

In the case of a Muslim wife living in an Islamic household with a Muslim husband, her faith in Islam and its principles will not allow her to slip into this type of recalcitrance in the first place. In the unlikely event that she did fall into such behavior, however -- for example, out of caprice or due to some passing emotional upset -- she would quickly come to her senses and ask God's forgiveness during the first "treatment" phase which we have described; her Islamic commitment would not allow her to stay trapped in such an attitude or behavior long enough to witness the third and final phase. As for the Muslim husband living with his Muslim wife, he would never, in relating to his spouse, go so far as to subject her to physical or verbal abuse simply because she had committed some error or slipped into a state of rebelliousness. In other words, a true commitment to Islam constitutes a type of "safety valve", as it were, for each spouse against any sort of unseemly behavior on the other spouse's part.

Genuinely Islamic households, I dare say, are the most eloquent witness to the truth of what I am saying. As for other households, they are accountable for whatever suffering they incur due to their misguided behavior. It is a widely recognized, though not surprising, irony that those who pretend to be the most concerned about the woman and her rights, finding fault with Islam for the Qur'anic verses which we have discussed in this section, are often the quickest to act abusively toward their own wives. As I pen these lines I have in mind numerous names and painful stories. However, my own faithfulness to the Divine requires that they remain in confidence.

* * *

4 - Polygamy

Polygamy is one of the issues most frequently focused on by those who wish to promote a negative image of Islam while at the same time claiming to be concerned for women and their rights. Such people see polygamy as definitive evidence that in Islamic societies women suffer from a lack of equality with men. We thus need to ask: What truth is there in this point of view?

Human interests and the law of graded priorities

In discussing this matter, it should first be reiterated that the rulings of Islamic law are based on what is required by people's best interests. Those things which serve people's best interests, on one hand, and those which are potential causes of corruption and harm on the other, vary in importance and seriousness; moreover, they are always interrelated or at least associated on one level or another. Note, for example, the way in which God Almighty describes wine and gambling, saying, "They ask you about wine and gambling. Say, 'In them is great sin and yet, some benefit for people, but their sin is greater than their benefit'"[Al-Baqarah (The Cow) 2: 219]. Most of us would agree that the human interest reflected in the preservation of life is of greater importance and seriousness than that represented by wealth or even one's capacity to reproduce, and that the necessities which support the human interests of life, sound reasoning, mental health and material possessions, for example, should receive higher priority than secondary needs or luxuries.

Thus it is that, as divine providence would have it, there is no such thing as an earthly enjoyment or pleasure which has not been tainted, if even only slightly, by a certain degree of discomfort and annoyance. Similarly, it is in the nature of our creaturely existence that our interests should vary in terms of importance and urgency. This being the case, how can human interests be made the focal point of the laws by which we live? The answer to this question lies in the divinely legislated classification of interests, on one hand, and causes of corruption and harm on the other, based on their degree of importance and the extent to which these two categories overlap and influence each other. This is what is referred to in Islamic law as the principle of graded priorities.

This law of graded priorities imposes itself on the practical level with respect to most, if not all, rulings relating to Islamic law. Hence, if a legitimate interest on the level of "exigencies"[1] conflicts with a legitimate interest on the level of fundamental needs, it becomes necessary to sacrifice the exigency in favor of the fundamental need. Similarly, if a Muslim is obliged for some reason to choose between two courses of action, one of which will lead to consequences which will adversely affect, if even only partially, what have been termed "ameliorations"[1], and the other of which will lead to harmful outcomes which will be felt on a wider scale and which will adversely affect either "exigencies" or fundamental needs, he or she should choose the former course of action since, although it harms some human interests, these interests nevertheless remain on a lower level of priority.

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[1] "Exigencies" were defined in Chapter Two as whatever makes it possible to create conditions which will spare people undue hardship in their lives [t.n.].

As for marriage, God has established it in order to fulfill a fundamental need, namely, that of ensuring the survival of the species and holding human beings responsible for building up the family and raising the younger generation. In other words, it has been established in order to bind the generations together by the previous generation's taking care of and nurturing the generation which it has brought into existence. We may say, with respect to marriage, that ideally, each spouse should reserve himself or herself entirely for the other, devoting himself or herself solely to caring for and seeking the happiness of the other. However, Islamic law recognizes the possibility that certain circumstances and factors may cause this or that husband to feel unable to content himself with one wife. There is no one, I suspect, who would doubt the fact that such circumstances and causes often arise, of whatever type they happen to be. Not only so, but I believe it is fair to say that such causes make themselves felt more powerfully to men in the West than they do to men in Islamic societies.

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[1] The term "ameliorations" was defined in Chapter Two as "practices and customs which, although they may not be necessary, nevertheless contribute to a life that is pleasant, seemly, and supportive of society's best interests" [t.n.].

God Almighty, who has bound His creatures to this law, knows that we human beings have always been prone to error and that we will never join the ranks of angels who are exempt from weakness and sin. Hence, suppose that a husband is tempted to infidelity so powerfully that he finds himself before two choices: either resist the temptation and go on limiting himself to his one wife despite the difficulty this poses for him, or surrender to the temptation at hand and commit adultery. In view of such a husband's moral and spiritual vulnerability, what is most likely to happen, realistically speaking, is that he will end up adopting the second course of action, allowing himself to be drawn into sexual misconduct.

It is at this point that the principle of graded priorities comes into play in preserving our human interests and protecting us from sources of harm and corruption. Islamic law has established that if there is no avoiding the presence of another woman in a given husband's life -- given the condition of sexual tension from which he is suffering -- then let this other woman also be bound by a marriage contract, and let the man shoulder toward her the same responsibilities which he shoulders toward his original wife, including payment of the required dowry, financial support and provision of a place to live. In addition, let him commit himself to observing complete fairness between his two wives with respect to nights spent at their houses, provision of financial support, and the manner in which he treats them; let him likewise bear the responsibility for caring for the children born to the second wife just as he has done for the children born to his first.

Islamic law stipulates such provisions in view of the inescapable fact that if a husband takes on an additional sex partner without any commitment to the types of responsibilities we have mentioned here -- in other words, if he opts for adultery -- this will be more destructive to human interests than if this added sexual bond is circumscribed and regulated by the controls and limitations involved in a legally valid marriage contract. The second option cited above, namely, illicit sexual intercourse, flies in the face of the law of graded priorities, while the first option, namely that of taking a second wife, allows this law to operate and to fulfill its intended purpose of protecting human interests.

While Western societies leave the door wide open for the husband to practice "unofficial" polygamy without binding him to any rules or holding him accountable to any standards of justice, Islamic law leaves the door to polygamy only partially open, as it were, by imposing heavy fines on the husband who engages in this practice and holding him accountable to a strict criterion of fairness with respect to nights spent with his respective wives, financial support, the provision of adequate, separate domiciles and personal treatment.

Who of us can reasonably say: "If there is no avoiding the husband's taking a sexual partner other than his original wife, then let him do so however he likes; let him grab whatever pleasures and advantages he wishes without being strapped with a single added responsibility or burden, and without being obliged to recognize whatever offspring are born to him as a result of his choices. After all, this is more fitting and 'cultured' than regulating the man's conduct by standards of compassion and fairness or adhering to the principles of: 'Endure the lesser harm in avoidance of the greater one,' and 'Give necessity its due'"?!

* * *

The opposing viewpoint

The line of reasoning we have just set forth has yet to find a hearing either in Western societies or among those enamored with such societies' thoughts and ways. There are two reasons for this: The first reason is that the Western way of life is based on a view of what we refer to as "adultery" which differs radically from the view embodied in Islamic law. According to the view which prevails in the West, one's sexual instincts can legitimately be satisfied in any way which is mutually acceptable to both partners. Hence, even though the convention of marriage and forming a family within this context may still be viewed as the ideal model, and despite the long litany of social, health and moral tragedies which have followed in the wake of sexual promiscuity, the instinctive attractions to the latter continue to hold sway in actual practice. As a result, the influence exerted by the notion of graded priorities is all but non-existent in this area of life.

By contrast, Islamic law -- whose rulings and precepts revolve around the universal human interests summed up in the five categories of (1) religion, including both its outward and inward realities, (2) life, (3) sound reasoning and mental health, (4) the well-being of future generations, and (5) wealth and material possessions, in this order of priority -- is bound to judge extra-marital sexual relations with a view to their multitudinous consequences and ramifications. Then, after comparing extra-marital sexual relationships with those that are regulated by the limitations which are part and parcel of marriage, Islamic law judges each of these in accordance with what is required by the law of graded priorities with respect to both human interests and potential sources of harm and suffering.

The second reason for the lack of receptivity in the West to the arguments I have offered in favor of polygamy is that marriage itself, in its legal and social sense, has fallen into decline in Western societies, especially American society, where long-term friendships between a man and a woman have come increasingly to take the place of marriage. It can easily be observed that not only is this type of bond a rapidly spreading phenomenon, but it has begun to supplant marriage altogether, especially among members of the new generation. This being the case, it is only natural that the link between the bond of friendship/romance on one hand, and a slide into adultery on the other, would not reveal the gravity and destructiveness of the latter with respect to the former. After all, there can be no doubt that in the eyes of many people, vice is transformed into virtue when the level of virtue in their immediate environment declines to the level of vice; this is particularly true in the case of people who only perceive the true value of things when they can see them contrasted with their opposites. For example, when the bond of friendship between a man and a woman replaces marriage in their lives, this has the effect of elevating even the most dishonorable type of male-female association to the level of this type of friendship which has taken marriage's place. After all, what difference is there between a previously formed "friendship" between a male and a female, and another such friendship which one or the other of the two forms after the commencement of the first relationship? If the earlier relationship was serving as a substitute for marriage and enjoyed the same sacred status as marriage, then the subsequent relationship should, by all rights, be accorded the same respect -- indeed, it should be imbued with the same sanctity - as the earlier one.

This phenomenon would appear to explain why it is that most girlfriends who discover that their boyfriends have become involved in relationships with other women or girls are not upset by this discovery and, in fact, they see nothing objectionable in it. This finding was revealed by a comprehensive survey dealing with sex and morals in the United States, and which was conducted and published some years ago by the Kinsey Institute for Sex Research. This survey presented a large sampling of young women with the following question: How would you respond if you found out that a boyfriend of yours was involved in a sexual relationship with someone else? The response of 6 percent of those surveyed was that they would prefer to break up with the boyfriend in question; 10 percent of them said: "We would stay in touch, but I wouldn't consider him a boyfriend anymore"; another 33.4 percent replied, "We would remain boyfriend and girlfriend, but it would become a source of trouble between us"; while approximately 51 percent of those surveyed responded saying, "We would go on being boyfriend and girlfriend, and it wouldn't be a problem."[1] The logic of this position which, as we have said, is representative of the attitudes of numerous American young women, is an outgrowth of the decline of the status of marriage to the level of adultery by mutual consent, not the elevation of adultery to the level of a disciplined, sacred marriage bond.

In view of the fact that Islamic law rejects adultery in any form due to the destructive results to which it leads, the decline of the bond between husband and wife to the level of an open, unregulated friendship -- or, ongoing adultery, if you will -- does nothing to change the reality of things or to compensate for the destructive outcomes which adultery engenders so long as these outcomes are ongoing and visible to all. As for the West -- whose point of view and way of life are modeled clearly by the United States -- it tends to view the sexual liberties taken by men outside the bonds of marriage or long-term romantic relationships as being no less justified than the marital relationship itself, or than the long-term relationships which have come to take marriage's place.

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[1] See Al-Kifāḥ al-'Arabī Magazine, No. 776, 14 June, 1993, "Sex is America's Number One Problem."

One result of this view is that men in the West have gone as far as they can go in terms of such sexual liberties; but in so doing, they have violated all imaginable aspects of the propriety, dignity, safety and hygiene of the society in which they live, not to mention all of the rights which this society acknowledges as belonging to the woman, such as the right to enjoy her freedom, to take pride in her humanity, and to protect her physical health and well-being. The reason for this is that when the Western system agreed to allow live-in boyfriend-girlfriend arrangements to take the place of the sacred marital relationship, after which it agreed to elevate all other sexual liberties to the level of the live-in romances which had supplanted marriage, this was a clear declaration on its part that virtually all sexual adventures which might take place in society are, in essence, no different from those which take place within the bonds of marriage. One of the outcomes of this declaration -- which has been welcomed by those prone to giving free rein to their caprices and sexual urges -- is that such societies have been overtaken by a veritable flood of violence, kidnapping, rape and disease. Not only so, but as was inevitable, the brunt of these misfortunes has been borne by women and girls, since the "adventurers" in these cases are, by and large, the men.

Studies and investigations conducted by journalistic organizations and health, cultural and social institutes in the United States speak frankly about the tragedies and outrages which result from what is referred to today as "the sex monster" on virtually all levels of society and in all kinds of places, including government agencies, universities and other institutions. Many women have spoken in this context about the ways in which their professional futures were ruined as a result of their refusal to respond to their employers' sexual advances, and about the humiliation they felt and the retaliatory measures to which they were subjected due to their resistance. Some of them have even talked about contemplating suicide as a way to escape from their predicaments. Such investigations reveal that given the high percentage (53 percent) of female university students who are raped each year, large numbers of young women have actually abandoned their university studies in order to escape being sexually violated.

The US government once released, by way of the National Center for Disease Control, official statistics indicating that the number of cases of sexually transmitted diseases was increasing in the United States by an average rate of 15 million new cases per year. As for AIDS, it was only one of a large number of sexually transmitted diseases found to be on the increase.[1] What is peculiar in this connection is that there are Western writers and researchers who ask in amazement what might be causing this immersion in sexual passion and the steady increase in the sex crime rate; it is as if they imagine that an open, free, mixed society like America's should be immune to the type of plague which has swept over it. However, when we draw the appropriate connections between outcomes and their antecedents, there ceases to be any cause for amazement. On the contrary, we begin to see such trends as the logical result of the destruction of the sacredness of marriage, the replacement of marriage with "long-term relationships", and the move to considering sexual contacts outside the context of such relationships as no different, in essence, than these relationships themselves.

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[1] Ibid.

Lest human society fall under the sway of this ruinous sexual "fever", Islamic law insists that marriage alone be the sphere in which sexual contact takes place, and that society, rather than closing its eyes to the destructive force which unbridled sexual expression can become, should refrain from setting up what is termed "friendship" as a substitute for marriage. Otherwise, society will eventually find itself obliged, willingly or unwillingly, to consider all sexual adventures as acceptable substitutes for and/or accompaniments to such "friendships".

If more than 50 percent of the women and girls who were asked, "What would your position be if you discovered that your boyfriend was sexually involved with someone else?" replied saying, "We would continue our relationship and it wouldn't be a problem," this response provides the most cogent possible justification for Islamic law when it persuades the wife -- by means of commitment to responsibility and fairness -- to offer a similar response when her husband takes another wife, saying, in effect, "We'll continue being married, and it won't be a problem."

However, the difference between the two situations described here is that treating a "sexual friendship" at home as though it were the same as a "sexual friendship" outside the home is what has brought on the horrifying tragedies which have overrun Western societies, setting them on the path of ruin, whereas treating a first marriage and a second, simultaneous, marriage as being equal within the protective framework of a regulated, committed conjugal life serves to prevent society from being swept away by these tragedies and having to come face to face with what the West has termed "the sex monster" or "sex fever."

Yet despite the obvious distinction between these two "equations", there continue to be gullible folks nowadays who will come up with 101 justifications for the first equation, namely, "live-in girlfriend = street girlfriend", whereas for the second equation, namely that of "first marriage = second marriage" -- an equation established by God Almighty within the framework of specific controls and restrictions -- they are not willing to give a single justification!

However, let it be known to both the gullible and the skeptic alike that the only excuse offered by those who treat a live-in girlfriend as equal to someone off the street is their quest for a single night's enjoyment, nay, a single hour's enjoyment; then, once this has been achieved, let all hell break loose! As for the excuse offered by Islamic law, it consists in the fact that it is not willing to allow the kind-hearted, unfortunate woman living under the autocracy of a foolhardy man who goes panting after his own enjoyment to be treated as a mere instrument by means of which he gives vent to his sexual impulses. Nor is it willing to allow the sexual relationship which God has sanctified within the bonds of marriage to turn into a plague which poisons the environment and spreads death and destruction.

I once came across a passage relevant to this issue penned by the late Shaykh Muḥammad al-Ghazālī, may he rest in peace, in his refreshing book entitled, **Fann al-dhikr wa-al-du'ā' 'inda khātim al-anbiyā'**, ("The Art of Supplication and the Remembrance of God as Practiced by the Seal of the Prophets"). Rather than distorting his message by an attempt at abridgment or summarization, I prefer to quote his words in full, allowing their insightfulness and spirit to speak for themselves. Al-Ghazālī states:

Islam both permits and facilitates marriage, considering it to be among those acts through which we can draw nearer to God. When it finds that the man meets certain moral qualifications, it permits him to take more than one wife; otherwise, however, it forbids him to do so. It is thus strange that the Western world has stirred up thick smoke around the teachings of Islam on this point, setting mischievous tongues in motion against it wherever it turns. What is even stranger is that this same Western world bases its own sexual relations on an extraordinary anarchy; the numbers of children born out of wedlock are increasing so scandalously that in some regions, they nearly equal those born within wedlock.

With respect to the practice of coupling with more than one woman at a time, it is quite common to find a Western man flitting like a butterfly among a veritable throng of women. The wife of former US President John F. Kennedy once mentioned, for example, that her husband had had between two hundred and three hundred girlfriends. Indeed, even the most wretched have-nots, not to mention their kings, can steal away the honor of hundreds. What I find astonishing is that a man can make the rounds among an army of paramours without suffering the slightest shame or embarrassment; but if he should make the rounds among several wives within a wall of airtight morals, he is thrown into the prisoner's dock. One of the West's most renowned leaders and politicians was a man who had one foot firmly planted in the realm of the obscene! Yet, despite his abounding lechery and the well-established charges of adultery leveled against him, none of this detracted in the least from his eminence.

Writing in **Al-Ahrām** newspaper,[1] [journalist] Anīs Manṣūr once stated: "It came as no surprise when a book was released in France about the 'tiger' of French politics, Georges Clemenceau (1841-1929). This man fought frightening political battles and emerged triumphant. He was a man who could talk to twenty people about twenty different topics at one time. No one imagined that this man had eight hundred lovers, from whom he sired forty illegitimate children." (I wonder how many legitimate offspring were fathered by this wolf as well?) Anīs Mānṣūr continues, saying. "When Clemenceau learned that his American wife had been unfaithful to him, he got up in the middle of the night and sent her out into the street clad in nothing but her nightgown." (As for us, we wonder in disbelief: Why did this man forbid to others what he allowed himself?)

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[1] 13 September, 1979.

The journalist comments on these events, saying, "Clemenceau, like all human wolves, was among the most contemptuous toward women. No one has ever spoken viler words about women than he did, whether from his 'pleasure bed', as it were, or his sick bed. Even so, France's Assistant Minister of Defense put out a book about Clemenceau, while leaders of the Western world look upon him as someone who reached the pinnacle of success. Why? Because he engaged in illicit sexual intercourse rather than marrying.

Adultery, of course, is easy; even so, taking on multiple sex partners outside the bonds of marriage is a failing that will bring a man down every time, even if he happens to be an absolute genius. This is the tradition which was established and blessed by the 'Crusader civilization' and which it wishes to spread among us as well.

The Prophet of Islam elevated the meaning of marriage in a notable way. No longer was matrimony to be an arrangement in which power was wielded by a strong man over a weak female; rather, it was to become a freely made contract which begins and is concluded by divine permission and with a divine guarantee. When the Messenger of God (pbuh) delivered his farewell address, he said, 'Reverence

God in [your manner of relating to] women. You have taken them under your care as a trust from God, and their bodies have been made lawful to you by the word of God.' This contract is both material and spiritual, earthly and heavenly in nature, and the household whose life is based on this foundation will be filled with tranquillity, affection and mercy. The marriage contract likewise bears a social stamp which enables human development to proceed within an atmosphere of purity and proper guidance."[1]

When are the conditions for the legitimacy of polygamy fulfilled?

Despite all we have said thus far, it must also be pointed out that the divine Lawgiver has stipulated that in order for a man to legitimately take more than one wife, he must meet a list of demanding conditions. For example, the husband must provide the second wife with a suitable dwelling separate from the one in which his first wife lives; he must provide equal financial support for both wives, spend the same number of nights with each one, and treat them with the same respect, loyalty, honesty and the like.

The wisdom to be found in these conditions is, first of all, that they ensure that the fairness and impartiality with which the husband treats his wives will overcome the feelings of jealousy or envy which might arise between directing their energies instead toward striving in a positive way to gain the husband's approval and affection and, as a consequence, to create an atmosphere of happiness in both households. Secondly, these conditions serve to discourage the man from taking another wife unless there is a clear need to do so -- for example, due to circumstances or causes which could drive him to commit sexual immorality or to divorce his first wife, thereby breaking up his first household and family, unless he resorts to the alternative offered by polygamy. Someone who is disposed to considering polygamy simply as a luxury and without any clear necessity will find himself weighed down so heavily by the conditions requiring him to provide equal financial support for both wives and treat them equitably that he will have nothing to gain from this "luxury" and will find no pleasure in the expansionist ambitions which he needlessly entertained. However, in the case of the husband who is driven by necessity and the desire to flee from actions on account of which he would merit God's displeasure and chastisement, the reality of the need he has experienced may lighten the burdens embodied in such conditions; such a person may well feel that these conditions, exacting as they are, are more tolerable than the distress he would have suffered had he given in to the temptation to commit sexual immorality or to break up his first marriage.

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[1] Fann al-Dhikr wa-al-Du'ā' 'inda Khātim al-Anbiyā' (The Art of Supplication and the Remembrance of God as Practiced by the Seal of the Prophets), pp. 49-51.

Given considerations such as these, one finds that according to statistics provided by the Arab League, the rate of polygamy in the Arab world between 1987-1996 came to no more than 7 to 10 cases per 1,000. It goes without saying, however, that we are not concerned here with those cases of polygamy which take place in violation of the limits prescribed in the divine law; rather, we are speaking only about the legitimate practice of polygamy, that is, polygamy which involves compliance with the conditions we have outlined above and which are derived from Islamic law.

In other words, Islam cannot be held accountable for those who, by their decision to take another wife, commit offenses which are no less serious by Islamic standards than slipping into sexual sin or resorting to divorce without just cause. Such husbands include those who, through polygamy, abandon the wives that they were dissatisfied with, or who show preference for one wife over another in terms of personal treatment or financial support. The party which bears responsibility for such offenses is not Islam itself, which made legal allowance for polygamy as a "safety valve" against these very transgressions but rather, the Islamic judiciary, which is duty-bound to track down and prosecute such offenders, nay, criminals.

Why, then, is polyandry not permitted in Islam?

There are people today who, if they were presented with the clear, logical arguments which we have just reviewed here, would try to evade the issue, saying: "Fine. Given that the crucial point here is the necessities which might require a husband to resort to polygamy, why is it that the Lawgiver did not, in view of these same necessities, allow for polyandry as well? Isn't the woman, like the man, prone to feel dissatisfied sexually with just one husband?"

In reply, let me ask: Is pleasure, in the system of Islamic law, the servant of human interests, or are human interests the servant of pleasure? One of the axioms of the Islamic belief system is that God Almighty has made human enjoyment the servant of human interests, and not vice-versa. This being the case, the pleasures which accompany marital life exist to serve the human interest of building the family, just as the pleasure associated with food and drink exists to promote human beings' health and well-being, and as the pleasure associated with sleep is a servant to human beings' need to restore their energy and vitality. If it weren't for the enjoyment which God made to be part of these activities, they would turn into burdensome duties which we would tire of and eventually abandon altogether. As a result, the interests for the sake of which these activities were brought into being would no longer be served, the family would suffer, nerves would be frayed, our health would disintegrate, and in the end, we would lose interest in life's most basic necessities.

What this means is that pleasure plays a supportive role in relation to the requirements of human interests, whereas human interests do not play such a role in relation to the requirements of pleasure. On this basis we may say that the man's potential need for more than one wife, given the controls and conditions we have already mentioned, need not violate the interests of the family or interfere with our ability to determine children's paternity. As for the woman's potential need for more than one husband, however, what we find is that if this need were fulfilled, it could destabilize the entire family structure and make it impossible to determine children's paternity; as a consequence, her children would be rendered vulnerable to a variety of illnesses and psychological complexes, and there would be confusion in the relationships among the children themselves.

Imagine, for example, that you are speaking with a group of children and you ask some of them to tell you about their fathers; in response, they take turns introducing you to their fathers, full of assurance and pride. When you ask others, however, they begin to stammer in their attempt to reply, while their faces betray the despondency in their hearts, since the only parents they know are their mothers who bore them. Now, take things one step further and imagine the spread of this phenomenon throughout the society and its negative psychological effects on society at large and, in particular, on the relationships among members of the new generation. As you imagine these scenarios, bear in mind that this grim social breakdown would be the result of the wife's perceived need for additional pleasure, a need which she fulfilled by taking more than one husband!

Islamic law could never sanction this topsy-turvy approach, nor could the logic on which it is based place the interests of human society at the mercy of the enjoyment of its individual members. Rather, society should tread proudly the alternative path in which pleasure is placed at the service of human interests and their protection. The philosophy of Islamic law states, and rightly so, that placing priority on the preservation of human interests, though it may require the sacrifice of pleasure at the outset, will eventually yield pleasure and enjoyment for society on both the individual and collective levels, whereas placing priority on human enjoyment without concern for more comprehensive human interests may eventually have the effect of both ruining human enjoyment and destroying human interests.[1]

Hence, Islamic law deals with the wife’s need in such a case in a manner which has no harmful effects on society and its interests. If, for example, a wife finds herself in a situation in which she needs another husband -- a situation which only comes about if she is being deprived of her rightful sexual needs -- she may ask to be separated from her husband from whom she has not received the legitimate physical pleasure for the sake of which marriage was instituted, in order to marry another man. Should she make this petition, the wife can expect the Islamic judiciary to provide her with all the support and assistance she needs. In this manner, Islamic law demonstrates respect for the woman’s legitimate right to pleasure, yet without neglecting an essential interest of the society at large. Readers who wish to pursue this subject further can find explanations of this ruling in the primary source texts for Islamic jurisprudence.[2]

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[1] See the chapter entitled, “Ahamm Khaṣā’iṣ al-Maṣlaḥah fī-al-Sharī‘ah al-Islāmīyah” (The Most Significant Features of Human Interest in Islamic Law) in my book, Ḍawābiṭ al-Maṣlaḥah fī-al-Sharī’ah al-Islāmīyah (Criteria for Determining Human Interests in Islamic Law), p. 44 of the most recent edition.

[2] Details on this ruling may be found, for example, in al-Ramlī’s Nihāyat al-Muḥtāj, 6/305 and Ibn Qatādah’s Al-Mughnī, 7/112 and 235.

5 - Divorce

The divorce-dowry dialectic

There are people today who ask: Where is the equality between the man and the woman in a household where the decision as to whether the woman stays or goes is left in the hands of the man?! If the woman is content and wishes to continue living with her husband, she might wake up one morning to find that she is being required to leave simply due to a desire or whim on her husband's part, without her being in the position to veto or even criticize his decision. If, on the other hand, she is discontent and would like for some reason to leave her husband and marry someone else, she has no choice but to patiently endure a life which she has no power to alter.

These are the challenges and criticisms which some have directed against the system of marriage and divorce in Islam. Such people accuse the Lawgiver, in effect, of showing partiality toward the man in the relationship between him and the woman within the context of marriage; moreover, they view the right to divorce which has been, for the most part, placed in the man's hands as the clearest proof of this bias.

Such critics see divorce in Islam as evidence of divine favoritism toward the man. Why, then, do they not see Islamic law as it pertains to the dowry and the husband's responsibility to support his wife as evidence of "divine favoritism" toward the woman? Whoever goes in search of evidence for bias in marital life under Islam will find a clear, indeed glaring, example of such bias in the Islamic ruling on the dowry and financial support for the wife. In other words, it is no more difficult to see this provision for the wife as evidence of partiality toward the woman than it is to see the Islamic law as it pertains to divorce as evidence of partiality toward the man. (I use the terms "partiality" and "bias" merely for the sake of argument, out of deference for those who level such charges against Islam.)

The issue of divorce in Islamic law is tied directly and intimately to the issue of the dowry and financial support. Once we have observed this fact, we will realize that this direct, intimate connection gives rise to the greatest possible equality between the husband and the wife. The relationship between these two realities -- divorce on one hand, and the dowry and financial support on the other -- can be likened to the relationship between the two scales of a balance. Have you ever seen a rationally minded person look at just one scale of a balance, then proceed to make judgments on its size, appearance, function, etc. without acknowledging the presence of the other scale?

With these observations in mind, let us examine the delicate relationship which God has established between the wife's right to a dowry and financial support, a right in which God has been "partial" toward the woman, and the husband's right to divorce, in which God has been "partial" to the man. God has made divorce to be a source of gain for the man, but

He has tied it to the dowry and financial support which He has made to be a source of loss for him; by contrast, God has made the dowry and financial support a source of gain for the wife but has tied these to divorce, which He has made to be a source of loss for her. What this means is that the woman, though she may have suffered loss through divorce, has nevertheless been given her dowry in full; similarly, the man, although he has suffered loss through the dowry, has nevertheless been given the right of divorce.

Where, I ask, is the inequality, whether in appearance or in reality, in this balanced correlation?

What has happened is that there are people who, while denying the connection between these mutually corresponding realities, insist on looking at only one of them as if the other had no existence. Fine. But if they are going to adopt such a one-sided view of things, why is it that they choose to look only at the divorce side of the equation, which leads them to the conclusion that Islamic law shows preference for the man while disregarding the rights of the woman? Why do they not happen to look only at the dowry/financial support side of the equation, which would lead them to conclude that Islamic law shows preference for the woman while disregarding the rights of the man? There is no injustice to be found in the Islamic ruling that there should be a precise balance comprising both these scales -- i.e., the woman's right to the dowry and financial support on one side and, on the other, the husband's right to divorce; rather, the true injustice is represented by the narrow view which focuses its sights solely on one of these sides while feigning blindness to the other, thereby making it possible to claim that the balance embodied in the Islamic system is an inequitable one which was designed for the sole purpose of oppressing the woman and showing partiality toward the man.

What is the soundest response to those who adopt this backwards approach to analyzing and understanding things, closing one eye, as it were, and choosing to look at only one scale of the balance while pretending that the other does not exist simply in order to be able to say that Islam presents us with a faulty balance that disregards the man's rights while showing partiality toward the woman's?

* * *

The system of divorce in Islam

Let us say a brief word here about the integrated system which God has established for divorce; following this, we will yield the floor to those who have proposals which they view as preferable alternatives.

To begin with, it should be noted that there are two basic types of divorce which a couple may go through. The first type, which takes place by mutual consent, presents no problem, and thus will not be dealt with here. The second type, which comes about by means of measures taken unilaterally by one of the spouses without the other's agreement, presents us with the necessity of setting up a scale of justice in order to protect the interests of both spouses. This second type of divorce may come about at the instance of the husband without the wife's consent, or at the instance of the wife without the husband's consent.

In the case of a divorce which takes place by the unilateral decision of the husband, the Lawgiver has granted legitimacy and effectiveness to this separation on condition that the entire dowry remain in the wife's possession and that none of it be granted to the divorcing husband. The wife is also entitled to an indemnity the value of which is to be determined by the judge hearing the case, while the husband is bound by Islamic law to continue providing his divorced wife with financial support until the termination of her waiting period [i.e., three months].[1] The only exception to these general rulings is a case in which the wife is demonstrated to have been guilty of refractory behavior and to have persisted in this behavior despite attempts to persuade her otherwise; such a case is subject to its own ruling which will vary depending on the particular circumstances involved.

In the case of a divorce which takes place at the wife's initiative, the judge must look into the causes for the wife's petition. If the causes include unjust treatment by her husband or refractory behavior on the husband's part and if all means of reconciliation have been exhausted, the judge must grant the wife's request for a divorce with the guarantee of her right to keep her dowry in full as well as all other legitimate rights which are her due. If, on the other hand, the basis for her petition for a divorce is simply a personal desire, a passing sense of hostility, or an emotional attachment to another man -- in other words, if it is not due to any negligence or failure on the husband's part -- the judge may still grant her request after convincing the husband to agree to it. However, in this case, the husband has the right to keep or reclaim part or all of the dowry which he gave the wife when they were first married.

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[1] The waiting period referred to here (Arabic, '*iddah*) is the period of time during which, following being divorced or widowed, a woman is not permitted to remarry [t.n.].

Hence, when a divorce takes place based on a whimsical desire on the husband's part, the wife is entitled to her entire dowry as well as other rights as well, whereas if the divorce comes about based on a whimsical desire on the wife's part, the husband is entitled to recover part or all of the dowry depending on what agreement is reached in this regard. However, if the wife wishes to exercise the right to divorce her husband directly (within the Islamic system); that is, without recourse to the judiciary, she may avail herself of a provision in Islamic law which allows her to stipulate in the marriage contract that she, like her husband, may initiate a divorce. If her husband agrees to have this stipulation placed in the contract, the wife stands on an equal footing with her husband with respect to the right to divorce whenever she wishes to and without recourse to the judiciary.

What is the alternative?

This, then, is an overview of the system of divorce set forth in Islamic law, the system which, as we have seen, is accused of fostering inequality between the man and the woman. One would assume that those who level such a criticism against the Islamic system of divorce have an alternative approach to regulating marriage and divorce which is above such criticism -- that is, a system which guarantees both the man and the woman their right to a just, equitable partnership. However, we have yet to be presented with such an alternative plan; rather, we simply hear expressions of discontent with the divinely ordained Islamic system together with admiration for the path being trodden by the West today; and if such sentiments fall short of out-and-out admiration, there is a silence that betrays neither approval nor censure.

What, then, is the status of divorce in the West? To begin with, it may be observed that when a man marries in the West, this costs him nothing comparable to the dowry recognized in Islamic societies, nor is he held legally accountable for providing his wife with material support.[1]

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[1] I once had a relative residing in the United States who married an American woman after she had given him a sum of money which, in our society and in accordance with the teachings of Islam, he should have given to her [in the form of a dowry]. It later happened that he brought his wife on a visit to Damascus for several days. When his =

One outcome of this situation is that when divorce takes place by a unilateral decision of the husband, this likewise entails no material cost or commitment.[1]

There is a statute in the United States according to which, if the man initiates a divorce to which his wife does not consent, she has the right to half of his assets. However, husbands frequently do not become subject to the effects of this law due to the fact that the divorce may be nothing but an unofficial separation rather than a finalized, legal divorce. This possibility makes divorce an easy, cost-free option for the husband. In the case of official divorces, all of the added responsibilities and difficulties resulting therefrom are borne by the divorced wife. Meanwhile, there has been a steady rise in the divorce rate in the United States; it is reported that as of the end of 1994, the official divorce rate there had surpassed 70 percent.[2]

As for the 30 percent of marriages which have not been infected with this "divorce bug" as it were, some suggest that

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= wife learned of the system which prevails here, she implored her husband not to let any of his family members know about the financial arrangements that had accompanied his marriage to her lest she be looked down upon in a society in which the woman is accorded such great respect.

[1] In cases where the couple divorcing have children, there is often a court ruling that the father is responsible for regular alimony and child-support payments [t.n.].

[2] It should also be noted that according to US law, wives have as much right to initiate divorce proceedings as husbands do and, in fact, many of the divorces which take place there are initiated by wives as well as by husbands [t.n.].

they consist of those couples who have aged so much that the husband has simply passed the point where he would be interested in a "replacement" were he and his wife to divorce. Hence, he has no choice but to spend the rest of his life with the spouse who looks after him and/or with whom he shares companionship and diversion.[1]

Is this, then, the ideal approach to divorce when it imposes itself on us? Is this the way to protect and preserve women's rights in the balance of a just equality with the man?

I noted in an earlier chapter that the beating of women has become the number one domestic crime in the West, and particularly in the United States. In this connection I quoted from a study which was published by the ***Journal of the American College of Obstetrics and Gynecology*** (January 1993) according to which, "Every 12 seconds a woman is beaten, in some cases to the point of death, by a husband or lover." However, we did not pause to ask about the reason behind this crime which grows more serious with every passing day. According to the writer of this same article, the reason for this phenomenon lies in the fact that the man, when he gets bored and discontented with his wife or girlfriend, chooses some other attractive woman in her place. As for the wife or girlfriend who has agreed to share a life with him, she eventually reaches the limits of her toleration and tries to solve the problem through blame and criticism, pleading at times and threatening at others. At this point, the couple begin to quarrel and the husband or lover, perceiving his woman as a mere hindrance on his path, falls upon her with blows and insults. This phenomenon has led to the presence of millions of divorced women, spinsters and those who have been banished by their lovers, together with heartbreaking numbers of children who have nowhere to find protection and nurture but shelters for the homeless and abused.

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[1] Perhaps it should also be pointed out that there remains a sector of American society which has retained a commitment to spiritual, moral values deriving from Christianity and Judaism, including the value of fidelity and commitment in marriage. Despite the ubiquitous temptations to "stray" (and to which both husbands and wives are exposed), many such people manage to move against the tide, so to speak, by living faithfully to their marital covenant rather than resorting to divorce and/or separation [t.n.].

There is talk in US circles today about new types of shelters which have been opened specially for the protection of women who are seeking ways to escape from the tyranny of husbands or lovers who beat them to the point where their lives are in danger. Given the fact that husbands and lovers of this type insist on coming after their women and bringing them back from the places to which they have fled for refuge, it has become necessary for these unique shelters to be located behind rows of buildings, commercial establishments, or various sorts of camouflage in order to protect the women who come to them from the dangers that threaten to find them out even in the haven to which they have retreated for safety.

This, then, is the alternative which we are witnessing on the cultural stage today, and I do not believe there is a third choice within the context of the thesis we are discussing. Is there anyone who can reasonably claim that this Western option is the most effective means of achieving justice, or that it is the ideal way to assure fairness toward the woman and guarantee her equality with the man in terms of the rights she enjoys? Does it preserve the woman's dignity more effectively for the divorce rate to skyrocket to 70 percent? If not, then why is divorce as it takes place within the context of Islam criticized so severely when the divorce rate in Islamic societies only comes to between 5 and 10 percent? And if a woman is divorced, is her dignity preserved by her losing both her husband and a sum of money as well due to the fact that when she was married, the marriage contract contained no financial guarantee on her behalf? Is the way to provide fair treatment for the divorced woman to divest her of the very right which God gave her and which He imposed on the husband as a fine, or perhaps as a punishment?! This would certainly be easy to do, and many men would be certain to applaud it.

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The philosophy behind the dowry and its role in preserving marriage

The necessity of the dowry in any marriage contract is insisted upon by the divine Lawgiver, and the ruling pertaining to it applies automatically even if the husband, or both the husband and the wife together, fail to mention it in the contract; moreover, the necessity and importance of the dowry is stressed by the Qur'an itself in the clearest, most definitive terms, where it states, "And give the women [upon marriage] their [bridal] gifts graciously. But if they give up willingly to you any of it, then take it in satisfaction and ease". [Al-Nisā' (Women) 4: 4]; and, "But if you want to replace one wife with another and you have given one of them a great amount in gifts, do not take any of it back. Would you take it in injustice and manifest sin? And how could you take it while you have gone in unto each other and they have taken from you a solemn covenant?" [Al-Nisā' (Women) 4: 20-21] Unlike a gift which a husband might give his wife under ordinary circumstances, the value of the dowry is not limited to its being a sum of money which the husband presents to his spouse. Rather, its value and importance lie in the reinforcement which it provides for the marriage bond; not only does it protect married life from the dangers which threaten its stability but, in addition, it guarantees marriage the longest possible life span, as it were.

This function of the dowry may be observed in the fact that when a man decides to marry a woman whom he admires and has a positive emotional response to, he relies on her as long as his love for her lasts, and lives with her until the reasons for his attachment to her begin to fade away. If love turns to boredom and attachment to discontent, how easy it would be for him to withdraw from the one who, just yesterday it would seem, was the object of his passionate affection, then go in search of another girl to fan the smoldering embers of his once blazing ardor. In a case such as this, there are two factors which keep the husband committed to his first wife: The first of these is a spiritual-emotional upbringing which has trained him to place greater importance on long-term human interests than he does on passing affections. This type of upbringing will have taught him to show more consideration for his mate's feelings than for his own fortunes and predilections. Such a disposition, of course, only develops as a fruit of long, steady exposure to sound religious teachings.

The second of these factors is the dowry which must be stipulated in the marriage contract in accordance with the approach laid down by God Almighty. In other words, the dowry serves as a kind of insurance, to use a term taken from modern parlance, which shores up the marital bond and reassures the woman that the man who is marrying her will not simply toy with her for a few weeks, then cast her away to go looking for some other diversion. If the man does happen to think in this way, he will have to contend with the divine ruling expressed in the words, "But if you want to replace one wife with another and you have given one of them a great amount in gifts, do not take any of it back. Would you take it in injustice and manifest sin?" [Al-Nisā' (Women) 4: 20] In other words, the man will be obliged by this insightful divine decree to weigh his desires for amusement and erotic love in the balance of human interests and the long-term consequences of his actions. In so doing, his conscience might awaken to a new understanding of the sacred message that lies hidden within this verse, namely: If you insist on causing this woman distress by leaving her, then the law of God is bound to cause you distress as well by requiring you to forego the money which you paid in the form of her dowry, however little or much it may be. However, you should realize that this is not so much a punishment for you as it is a legal settlement designed to protect and provide for your wife who has been caused to suffer by your leaving. By nursing her wound in this way, so to speak, you should recall the words of God who said, "But if they separate [by divorce], Allāh will enrich each [of them] from His abundance" [Al-Nisā' (Women) 4: 130].

It is also important to remember that the party who determines the monetary value of the dowry is the wife, and she alone has the right to decide how much it will be. After all, the divine Lawgiver established the dowry for the purpose of guaranteeing the stability of the woman's life and protecting her from becoming a mere plaything in the hands of the man who is promising her his love and affection. This being the case, it is only natural that the wife should be the one to decide how much the dowry will be and how she will dispose of it. However, we must also bear in mind that, as I have already pointed out, the guarantee provided by the dowry remains secondary to another, more fundamental guarantee, namely, intentions inspired by virtue and upright character which, in turn, only come about as a result of genuine faith in God, fear of God, and dedication to His teachings and statutes.

Even so, this guarantee may not be carried out in practical terms unless the marriage contract is documented and registered in the archives of the judiciary. Such documentation is an essential condition for the contract to become subject to legal verification and, as a consequence, for it to be possible to hold the husband accountable for fulfillment of all his commitments in the event of a divorce. Some marriages take place through procedures which, although they are consistent with Islamic law, are nevertheless conducted without the knowledge of the judiciary or proper documentation; in such cases, one finds that whether the wife obtains her rights depends solely on the husband's integrity, honesty and fear of God -- qualities which have become increasingly rare in this day and age.

Consequently, I would like to take this occasion to urge young women who receive marriage proposals, as well as these young women's families, not to rely solely on the unofficial contract, known commonly in Syria as the "outside" contract, and not to let a single night of the couple's married life pass before the contract has been properly documented and recorded with the relevant judiciary authorities. Our society is full of young women who have fallen prey to trickery and deceit as a result of this shameful, inexcusable practice. There are, alas, men who come to Syria from neighboring Arab countries and, when they see a girl whose appearance they find pleasing, they make her an offer of marriage, then offer to pay the entire dowry that is requested and more. As for the girl and her family, they are so thrilled that they forget the necessity of taking precautions; hence, when the fiancé requests that they content themselves with a quick, unofficial marriage contract without the intervention or even knowledge of the Islamic judiciary, they make no objections. The man enjoys the girl for a few days, during which he may ply her with gifts and the like; then he bids her farewell, assuring her that as soon as he gets back to his country, he will send her the required entry visa and bring her to live in his opulent home. At this point, however, the curtain is drawn on their "love story", and all that is left for the girl and her family is a tortuous nightmare with no way out once they come to the realization that their daughter was victimized by a man who simply wished to satisfy his own desires by numbing them with some illusory sums of money, then toying with them and going on his merry way.

If the marriage contract had been properly registered with the judiciary, such a degenerate scoundrel would have found no way to engage in this sort of game-playing and manipulation. Be that as it may, the repercussions of this error are borne by the girl and her family rather than by the despicable knave who brought their tragedy upon them.

The misuse of divorce

There is a particular problem which those with an ax to grind against Islam may hold Islamic law responsible for, thereby making it into a justification for accusing this law of mistreating the woman. The problem to which I am referring consists in a bad habit on the part of many husbands who use divorce as a kind of "stick" with which they can intimidate and threaten their wives. The inevitable result of this habit is that the wife and her children are liable to become the victims of either a lie or an arbitrary link unthinkingly drawn by the husband between a certain action or event and a threat of divorce.

What is the ideal solution to this problem? According to some, the solution lies in emptying the word "divorce" of its legal force in such a situation. In this manner, the word would lose its significance and seriousness such that however much the husband might use it as a means of backing up threats and the like, it would cease to pose any danger to his wife and family. However, this proposed solution leads in its turn to another, equally serious problem. In other words, we must ask: Who will authorize us to empty this word of its legal efficacy? If we ourselves were the ones who had originally invested the term "divorce" with the meaning it communicates, it would be reasonable for us to be the ones to divest it of this meaning. However, the significance which this terms bears was given to it by the divine Lawgiver, may

His majesty be exalted. Thus, how and by what authority are we to abrogate what God has decreed to be the connection between this word and its import?

Given reservations such as these, it will not do to seek a solution to this problem by emptying the word "divorce" of its legal force under Islamic law, especially in light of the words of the Prophet (pbuh), "There are three realities which take effect regardless of whether one speaks of them in seriousness or jest: marriage, divorce and taking one's wife back after a divorce."

Not only so, but the problem of such a husband's abuse of his wife would not necessarily be solved by such a measure, since the mistreatment lies not only in the wife's finding herself to have been divorced for the most trivial, invalid reasons; rather, the more serious abuse lies in the husband's using his wife and their life together as a means of backing up what he says in front of other people or as a measure of his determination to get what he wants. Hence, whether the divorce takes place or not, the problem of such a husband's abusiveness will not have been dealt with; in fact, it is bound to grow worse if the husband learns that the word "divorce" no longer bears the same force, or that there are religious scholars who would be willing to issue him a legal ruling that makes it easier for him to persist in his abusive conduct.

The solution to this problem, as I see it, is to establish a deterrent punishment to be enforced against any husband who persists in using this word outside the context for which it was intended and for purposes other than those for which divorce was established. Someone who can find nothing with which to back up what he says among other people but the relationship between him and his wife -- by swearing, for example, that if what he says proves not to be true, or if what he desires does not come to pass, he will divorce her -- is committing a grave offense against both his wife and God's law. It follows, then, that such a person should be subject to an equally grave penalty.

When those in positions of responsibility [in the judiciary and other branches of government] become serious about combating this type of irresponsible, manipulative affront to God's law, to the sanctity of marriage, and to the wife's honor and dignity, I believe this problem will disappear or at least be reduced.

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6 - Legal Testimony

Islamic teaching on the matter of women's legal testimony continues to be viewed by many people as further evidence of inequality between the woman and the man in Islam. The Qur'anic verse upon which this claim of inequality is based reads, "And bring to witness two witnesses from among your men. And if there are not two men [available], then a man and two women . . . ." [Al-Baqarah (The Cow) 2: 282]. Assuming good will on the part of those who make this claim, it must simply be based on ignorance of Islamic law and the rulings to which it gives rise. It is the same type of ignorance which we noted on the part of those who interpret the words of the Qur'ān, "Allāh instructs you concerning your children [i.e., their portions of inheritance]: for the male, what is equal to the share of two females ...." [Al-Nisā' (Women) 4: 11] as meaning that Islam judges males and females to be unequal. As you will recall from our earlier discussion of inheritance in Islam, the interpretation of this verse as a general rule applying to all females is based on a serious misunderstanding.

As for the conditions which are taken into consideration in determining whether a given person's testimony is acceptable or not, they have nothing to do with whether the proposed witness is male or female; rather, they can be summed up in the following two stipulations: First, the person must be known for his or her integrity, honesty and reliability; in addition, there must not be a dispute between the witness and the suspect which might prejudice the former against the latter and conversely, there must be no blood kinship between the witness and the suspect which might tempt the former to be prejudiced in the latter's favor. Second, the witness must be sufficiently connected to the event in question that he or she will be informed concerning the event and qualified to present testimony about it.

Hence, the testimony of someone whose integrity is subject to doubt or who has not been proven to be sufficiently informed, aware, and able to recount information and events in an accurate, reliable manner is not to be accepted regardless of whether the witness is a man or a woman. Nor may testimony be accepted if it is given by one adversary against another or by one relative in another's favor, regardless of whether the witness is a male or a female. Once the potential witness's integrity has been established and there is good reason to be assured that the witness will neither be biased in the suspect's favor due to kinship nor against the suspect on account of some outstanding dispute between them, it must likewise be confirmed that the potential witness is sufficiently informed about the event or issue concerning which testimony is being sought. Otherwise, the testimony will be rejected regardless of the witness's gender. Finally, if there is a disparity among the individuals who might serve as witnesses with respect to how closely they are connected to the issue or event about which testimony is required, priority is given to the testimony of those who deal more closely with the issue at hand and who are, in consequence, more knowledgeable about it regardless of whether they are men or women.

Given this principle, the Lawgiver disallows women's testimony in description of [violent] crimes and the manner in which they were committed due to the infrequency with which women tend to deal with such crimes, including murder and the like. It is most likely, in fact, that if a woman happened to witness an assault, murder, etc. she would flee from the scene of the crime or, if she were unable to escape, faint at the sight. The very opposite applies, however, to women's testimony in cases pertaining to infants, child care, questions of descent and kinship, etc. In matters such as these, women's testimony is given priority under Islamic law over men's testimony since women have more occasion to deal with them than men do. In fact, Ibn al-Qayyim quotes al-Sha'bī as saying, "There are certain matters concerning which only women are allowed to give testimony."[1]

As for financial transactions, business concerns and the various disputes, claims and lawsuits that might arise therefrom, both men and women might have a role in them; however, men tend to be more closely connected to such affairs and more intensely involved in them than women. This may be seen clearly in the fact that in virtually all ages and societies, those who have been most prone to immerse themselves in business activity, conclude business deals and take risks in this area are men. If one happens to see women in such contexts, they tend to be employed in administrative or clerical positions. Hence, God has made the ruling on legal testimony in this area to be a precise reflection of this ongoing reality which imposes itself in every society.[1] That is, priority is given to men's testimony, with women's testimony being allowed as well. One application of this, as we have seen in the Qur'anic verse quoted above, is for the testimonies of two women in connection with business-related affairs to equal the testimony of one man.[2]

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[1] See Ibn al-Qayyim, Al-Ṭuruq al-Ḥukmīyah fī al-Siyāsah al-Shar'iyah (Paths to Sound Judgments on Islamic Legal Policy), the Munīrīyah Edition, p. 145.

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[1] One of the clearest testimonies to what I am saying may be seen in the following personal experience: In around 1993 I paid a visit to the New York stock exchange. As I contemplated the hustle and bustle and the tense nerves all about me, I decided out of curiosity to see whether I could find a woman engrossed in what all these men were engrossed in, and I only managed to find one!

[2] The Qur'anic passage quoted above has a clearly business-related context, as may be seen by the statements which precede and follow it. We read, "O you who have attained to faith! Whenever you give or take credit for a stated term, set it down in writing. And let a scribe write it down equitably between you; and no scribe shall refuse to write as God has taught him: thus shall he write. And let him who contracts the debt dictate....And call upon two of your men to act as witnesses; and if two men are not available, then a man and two women from among such as are acceptable to you as witnesses, so that if one of them should make a mistake, the other could remind her...." [Al-Baqarah (The Cow) 2: 282]. In an explanatory note on this verse, Muḥammad Asad states, "The stipulation that two women may be substituted for one male witness does not imply any reflection on women's moral or intellectual capabilities. It is obviously due to the fact that, as a rule, women are less familiar with business procedures =

Thus we may ask: Does this coordinated approach to the matter of classifying legal testimony appear to be based on a superior view of manhood and an inferior view of womanhood? If it were, we would not find that priority is given under Islamic law to women's testimony over men's in matters relating to infants, child care, questions of descent and kinship, and other issues with which women deal more than men do, nor would priority be given to women's testimony in every legal dispute which arises among women and to which no men are party. If it were true that maleness and femaleness were the determinants of whether testimony is acceptable under Islamic law, it would be permissible to use the testimony of a man concerning the events of some crime that had occurred even if he had been proven to be an overly sensitive person who is prone to emotionality. In fact, however, if a judge in a court of Islamic law determines that a male witness has this type of disposition, he may no longer accept this man's testimony. The reason for this is that traits such as these are viewed as evidence that this person's ability to examine questions pertaining to crime and criminality is weak, if not nonexistent, and that he is consequently not competent to give testimony in connection with them.

Hence, the fundamental condition which must be met in order for legal testimony to be acceptable, whether the witness is male or female, is that there be a strong link

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= than men and, therefore, more liable to commit mistakes in this respect, see Muḥammad 'Abdū in (Manār) III, 124f." Muḥammad Asad, **The Message of the Qur'ān [t.n.].**

between the witness and the subject concerning which he or she is testifying. In other words, what makes testimony acceptable is not the witness's being male, nor is the witness's being female what weakens testimony or renders it unacceptable.

As for the number of women who must be available to testify in a given case, this depends on the type of legal dispute we are dealing with and the subject matter concerning which testimony is to be given. Moreover, it is subject to different interpretations. We have reliable reports to the effect that al-Thawrī, Abū Ḥanīfah and his companions, Ibn 'Abbās, 'Uthmān, 'Alī, 'Umar, al-Ḥasan al-Baṣrī, and al-Zuhrī held that the testimony of one woman is sufficient concerning any matter which is usually dealt with only by women.

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Something which many people lose sight of is that testimony which meets all of the requirements for acceptability under Islamic law is viewed as being independently valid evidence. Thus, if two witnesses who are known to be trustworthy and accurate testify that a given person stole money from someone who had placed it somewhere in safekeeping, the person who was thus testified against will be judged guilty on this basis. Similarly, if four witnesses known for their integrity, trustworthiness and accuracy testify that a certain person committed adultery, this person will be judged guilty on the basis of their testimony.

As for what is referred to in Islamic law as supporting evidence (qarā'in al-aḥwāl), i.e., those types of evidence which aid the judiciary in its investigations though without being sufficient in and of themselves as a basis for a verdict, women's testimony is classified as being included in this category regardless of what type of case is being investigated. Hence, a judge may -- indeed, must -- hear women's testimony regarding the description of a crime that took place or a business deal which was concluded, or in a litigation or dispute between two parties; this is because women's testimony is viewed as an important investigative tool and a means of solving mysteries and bringing the truth fully to light. In his book Al-Ṭuruq al-Ḥukmīyah, Ibn al-Qayyim provides a lengthy explanation of the significance and effect of women's testimony insofar as it is looked upon as evidence which stands alone on one hand, and as supporting evidence on the other.[1]

Most positive laws today rely in their judicial rulings on either a confession by the accused or what would constitute the equivalent of such a confession by way of incriminating documentary evidence. Once such evidence has been provided, testimony as such -- be it the testimony of men or women, and regardless of the nature of the suit or criminal case being heard -- is only relied upon in its function as supporting evidence which aids in bringing the investigation to a conclusion and confirming the charges against the suspect or defendant. Under these circumstances, the distinction between men's and women's testimonies as it pertains to the witness's closeness to or distance from the subject of the accusation does not apply. This is the same position taken by Islamic law so long as the search for testimonies and witnesses is taking place in order to supply supporting evidence for an ongoing investigation.

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[1] Ibid., pp. 145-155.

Hence, it should be clear from the foregoing that femaleness as such does not reduce the value of a witness's testimony, just as maleness as such does nothing to increase the value of someone's testimony. Rather, the ruling on this or that testimony rests, as we have seen, on the strength or weakness of the association between the witness, whoever he or she happens to be, and the theme around which the dispute revolves.

Someone might object here, saying: Social conventions play a major role in strengthening or weakening such associations. This being the case, will women's testimony be given priority over men's, or vice-versa, if changes occur in certain social conventions -- if, for example, women become more involved than men in the manufacture of clothing, or in a given profession such as pharmacology, or if male physicians rather than midwives become the primary people to attend births? The answer to this question is that indeed, the ruling concerning the basis on which a testimony is acceptable -- aside from the conditions that the witness be trustworthy and accurate --will vary with changes in prevailing social customs, provided that such customs fall within the range of what is permissible under Islamic law. Thus, in the event that male physicians come to be the ones to attend births due to a shortage or absence of female specialists in this area, it follows that priority should be given to men's testimony over women's in cases relating to childbirth. Similarly, priority should be given to women's testimony over men's in lawsuits relating to the field of pharmacology if the pharmacological profession comes to be dominated by women in a given society.

However, it is important to realize that if a certain modern practice is, by its very nature, in violation of some fixed Islamic ruling or principle, then it cannot serve as a basis for rulings relating to the acceptability of testimony by people who take part in this practice. After all, if a given practice or custom is itself invalid, then anything which is based on it will likewise be invalid. For example, someone might state that in societies which have developed the custom of accepting women on the police force, women's testimony should be accepted in cases involving violent crimes. However, this argument cannot be accepted in view of the fact that the Lawgiver does not sanction the adoption of such a practice in the first place and, as a consequence, He would not sanction rulings which arise from it. The reason for the unacceptability of a woman's being employed as a police officer or in other, similar positions, is that the nature of the work involved in such a position holds the potential of robbing her of her femininity, which is a great injustice not only to the woman, but to the man as well, since it robs him of the inscrutable, God-given delight which he finds in "woman as woman." One evidence of what I am saying here is that one rarely finds a completely "womanly" woman, that is, one with a sound womanly disposition and healthy feminine impulses, who would agree to enter the police force unless she has no other acceptable options available to her, in which case she is like the woman who dons overalls and spends her days as a taxi driver or a porter.

As a final observation, let us note that if femaleness and maleness played a role in determining the value and legitimacy of a witness's testimony, then the man's testimony would supersede that of the woman in what is referred to in Islamic law as the "oath of condemnation" whereas, in fact, their testimonies carry equal weight.

Specifically, if a man accuses his wife of adultery, he must prove his accusation by producing four trustworthy, reliable witnesses who are willing to testify that they saw his wife in the act of committing adultery. If he is unable to produce the required witnesses, the husband must swear four times that he is being truthful in his accusation, and this oath is counted under Islamic law as equal to the testimonies of four witnesses. If the man's wife denies the accusation, she is given the opportunity to do the same; that is, she may swear four times that her husband's accusation is false and, like her husband's oath, the wife's oath is counted as the testimonies of four witnesses. When this occurs, it becomes clear that one of the two spouses must be lying. The legal verdict which results from these two, equally weighted testimonies is that the husband and wife are to be separated with no possibility of reconciliation; prior to this, however, the husband invokes a curse upon himself if he is lying, while the wife likewise calls the wrath of God down upon herself should her husband's accusation be true.

As we have seen, the four-fold oath which each spouse makes is counted as a substitute for the testimonies of four witnesses who either affirm or deny that the wife is guilty of the crime of adultery. The important point to note in this context is that God has given the four testimonies denying the wife's guilt the same weight as the four testimonies which affirm her guilt, which demonstrates that neither femaleness in and of itself nor maleness in and of itself has any bearing on the value of someone's legal testimony under Islamic law.

The passage from the divine revelation which speaks of this matter reads as follows: "And those who accuse their wives of adultery and have no witnesses except themselves -- then the witness of one of them [shall be] four testimonies swearing by Allāh that indeed, he [the husband] is speaking the truth. And the fifth [oath will be] that the curse of Allāh be upon him if he should be lying. But her [the wife's] punishment will be prevented if she gives four testimonies [swearing] by Allāh that indeed, he [her husband] is lying. And the fifth [oath will be] that the wrath of Allāh be upon her if he was speaking the truth" [Al-Nūr (The Light) 24: 6-9].

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7 - The Veil (Ḥijāb)

Many people see the ḥijāb, that is, the Islamic requirement that the Muslim woman adhere to strict, clearly specified standards of modesty in her attire, as being one of the clearest proofs of the inequality which Islam has established between the woman and the man; in fact, some see it as evidence of contempt for the woman and an excessive restriction on her freedom. However, if those who hold this point of view gave careful thought to the rationale behind this requirement, they will discover that it is the opposite of what they had imagined it to be. In fact, it would become clear to them that the hijāb is a divinely given means by which it becomes possible for the woman to take part with the man in building society in all of its varying branches and senses, and the tool which facilitates their practical cooperation in the fields of science and culture and in a variety of humanitarian and cultural activities.

Unfortunately, this fact is not realized by many people; however, as I hope to make clear below, God willing, this poorly understood point is, in fact, a clearly perceptible reality.

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The rationale behind the ḥijāb

Women share with men in all aspects of humanity and, like men, they have been endowed with all types of mental and physical capacities and with the ability to contribute to a wide range of social and intellectual activities. This, then, is the common denominator which joins them. At the same time, the woman is set apart from the man by her God-given femininity and by the alluring charm which God has made to be a source of enjoyment in which both genders share. Moreover, this enjoyment and its catalysts have their origin not in the common denominators which join men and woman intellectually and which spur them to engage together in various social, academic and cultural activities; rather, they spring from instinctual impulses and responses innate to the man and the woman alike. Thus, the man encounters in the woman both a partner in intellectual and practical pursuits which aim toward building up civilization and society, and an "other" to which he is instinctually drawn through the womanliness which has been planted in her being.

With these observations in mind, it ought to be easy through a few moments of reflection to realize that there is an essential condition which must be met in order for the woman to come together with the man on a plane of genuine cooperation as they engage in the various humanitarian, social and cultural activities which require an effective mental presence; similarly, there is a condition which must be met in order for them to come together in pursuit of pleasure and emotional-physical satisfaction, both of which require stimuli such as adornment, physical attraction and the like. By stipulating such conditions, Islam ensures that neither of these two joint spheres of activity distorts the other, disturbs its tranquillity or robs it of its benefits.

What, then, is the condition for men's and women's coming together in the first sphere?

The condition which presents itself most clearly upon reflection is that there be a barrier of sorts which keeps these two types of encounter separate, thereby preventing the second sphere from exercising a corrupting or distorting influence over the first. And what condition is capable of fulfilling such a function? You will find it in what is referred to in Islamic law as the ḥijāb.

Lest misunderstanding or ignorance lead you to disturbing, exaggerated notions of what the ḥijāb entails, let me state clearly that what is referred to as the ḥijāb is, in essence, nothing more than a logical barrier which serves to separate the woman's participation with the man in social and humanitarian tasks on one hand, from her participation with him in the pursuit of sexual pleasure and satisfaction on the other. You will not find a legal definition of the term ḥijāb more precise than this one, which simply specifies its function and goal. Beyond this, you are free to refer to it by any name you wish provided that it suggests this same function and aim.

Let us now move from this theoretical discussion to an applied model inspired by the numerous events that occur in everyday social exchange. When, for example, a woman takes part with men in a scientific or intellectual encounter the aim of which is to achieve social reform or to deal with a scientific or cultural problem, let us assume -- as a concession to those who take offense at the ḥijāb and the restrictions it imposes -- that the woman appears at this academic gathering in full adornment, as it were, displaying many of her physical charms the way "liberated" women generally do today. Given this scenario, what do you suppose will happen when a woman whose appearance is this alluring gets up to discuss an intellectual issue, a social dilemma, or a literary work?

What is bound to happen is that in the case of the men who see and hear this woman, their instinctual desires will be aroused to such an extent that they interfere with their intellectual processes. In other words, they will be so distracted by the speaker's physical charms that they will not absorb what she is saying and the intellectual message she is seeking to deliver. On the contrary, the speaker will be proceeding along one track while these men are being carried by their instinctual impulses along another. What this means, clearly, is that the men are only relating to this woman -- despite the scientific or intellectual line of thought she is proposing -- as a bundle of femininity, so to speak, which arouses physical instincts and offers the hope of pleasure to be enjoyed. As for the intellectual content she is trying to communicate, it is lost on them.

I recall a young German woman who took part in an academic seminar which used to be held annually in Algeria, and in which I was also a participant. When this young woman was invited to present her contribution she was, like most any Western woman, fully made up and displaying her physical charms. In addition to these attractions, she was quite animated as she spoke. I looked around at the faces of those listening to her as she expounded an academic topic of undeniable importance, and I swear to God, there wasn't a single pair of eyes that didn't betray physical desire and erotic fantasies. As I scrutinized the faces of the men in the audience, I failed to detect the faintest glimmer of mental interaction or inward dialogue with what this woman was saying. Rather, the only response her talk met with was that some of the conference participants left their calling cards at her hotel room, introducing themselves and inviting her to a cocktail party!

Can you imagine any more flagrant, contemptible means than this of degrading such a woman as a thinker, as a researcher, and as a human being? The same type of degrading treatment may be observed in the following episode as well: A well-known Arab poetess was once reciting a poem she had written as part of an evening poetry reading being held here in the Arab world and she, like her German counterpart, was in "full adornment." From time to time during her recitation, she would let her long, flowing hair fall down over one side of her face, then quickly brush it back with a seductive gesture of her hand. When she had finished her recitation and the auditorium was resounding with applause, one man in the audience turned to his companion and asked, "What do you think of her poetry?" To which his friend replied, "I don't know about her poetry, but her hair will take your breath away!"[1]

Is there anyone who would fail to hear this man's words as the most stinging insult? Is there anyone, whoever he or she happens to be, who would fail to comprehend what is being communicated by these words, which shatter the meaning of the woman's participation with the man in all facets of social life and cast it contemptuously aside? What the speaker was saying to women, however indirectly, was: Try as you might to emerge among men as thinkers, scientists, creators or literary figures, you will never be anything but appealing playthings for men's amusement and gratification.

This being said, we might ask: In what way can zealous concern for the woman's dignity ensure that she not be degraded in this fashion, and that her humanitarian efforts and her academic and creative gifts not be swept away by this flood of enticements? Such concern might seek, for example, to erect a protective barrier which insulates the woman's person as a human being who is endowed no less than the man with spiritual, intellectual qualities and gifts, from what we might term her "feminine persona" which complements the man's masculinity in its various facets and expressions. And this, in fact, is what has been done by Islamic law, which has legislated the means by which it becomes possible to spare the woman such degradation and humiliation, fortifying her human spirit -- which is, after all, the foundation for her partnership with the man -- against anything and everything that might threaten or endanger it. Specifically, Islamic law requires the Muslim woman to dress in modest attire which brings out her human personality (that is, the aspect of her being that constitutes the common denominator between her and the man), while concealing those parts of her physical being which have the power to entice (that is, the aspect of her being that constitutes her femininity, or her uniqueness as a woman). This requirement applies in all situations in which there is some need for the woman to take part with the man in any of the various human and social spheres of activity. At the same time, however, Islamic law allows the woman -- indeed, calls upon her -- to reveal her femininity to the utmost extent, sipping with the man from the cup of delight which God has given them by right, when she comes together with him under the umbrella of a sacred, legally sanctioned contractual bond to share happiness together along with all of the responsibilities that such a covenant entails.

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[1] This exchange revolves around a pun on the Arabic words **shi'r**, meaning "poetry" and **sha'r**, meaning "hair" [t.n.].

If a committed Muslim woman had been in the place of the German woman of whom we spoke earlier as she delivered that beneficial lecture, she would only have revealed to her audience those parts of her physical being which exhibit the humanity that she shares in common with the men around her, taking care to conceal whatever might distract them from this spiritual, intellectual aspect of her being. As a consequence, the conference participants would have been hanging on every word of her creative, intellectually stimulating message. Instead of being dragged down, with or without her consent, to the level of instinct and sexual desire, she would have lifted them up to the level of her academic interests and knowledge. This is not to say, of course, that Islamic law divorces the woman from her femininity or her sexuality; rather, it teaches her to apply the wisdom summed up in the words, "Every situation has its own protocol."

I imagine that at this point, there are people who would like to say to me: Perhaps the examples you have cited as a basis for your argument are irresponsible women who aren't representative of women as a whole. But where is the difficulty in the case of a woman who, according to the standards of Islamic law, isn't wearing attire which is sufficiently modest but who, unlike the women you have described in these two anecdotes, is modest by commonly accepted social standards? Do the same conclusions apply to a woman such as this?

In reply, let me state here that the definition of "displaying one's physical charms" is a relative one which allows for varying degrees of modesty or immodesty; it begins with allowing one's hair to show and fixing it nicely, and extends to whatever lengths a woman wishes to go to in beautifying herself and revealing her bodily attractions. There is no scale by which to distinguish among such degrees in terms of a legal ruling so long as they are all included within this broad definition. Similarly, what is included in the definition of "being enticed" by such physical charms is a relative matter as well. Thus, some men might not look twice at a woman who discloses a limited degree of her physical attractiveness, whereas others might be so taken by her that when they see her they go off on flights of fantasy. As an ancient Arab saying goes, "For everything that falls, there's someone in the neighborhood ready to pick it up."

The same principle applies to a woman who has become sufficiently advanced in age that one would no longer expect men to be influenced as they once were by her physical appearance. Here again, the issue is a relative one, since men's dispositions vary, as do the circumstances in which they find themselves, with some circumstances making them more prone to physical arousal and others, less so. As for the elderly woman herself, it seems reasonable to suppose that if she had no reason to believe that there were men who might be attracted to her, she would not go to the trouble of making herself attractive when she goes out in public.

In view of such considerations, Islamic law -- like all laws -- issues its rulings with the aim of addressing issues and situations in the most inclusive possible manner rather than focusing on relative distinctions among particular cases. Laws are by necessity characterized by comprehensiveness and generality in both their formulation and their application; if they were not, their articles and provisions would cease to have the character of laws which apply to everyone. It is this truth which is conveyed by the precautionary rule of Islamic jurisprudence which states: Whatever one suspects might possibly happen is to be treated as if it will happen in fact.

Alcoholic beverages, for example, are forbidden by Islamic law due to their undeniable intoxicant properties. If we proceeded to distinguish between those individuals who become intoxicated easily and those who do not, between those who can "hold their liquor" and those who get drunk on a single sip even if they happen to spit it out after tasting it, and if we then applied this prohibition selectively depending on such differences in individual habits and propensities, the legal significance of this ruling would be lost and its legislative force would cease to hold sway over people.

This, then, is why it was necessary for the Lawgiver to place a clear limit on the meaning of "modesty" as required by Islam in accordance with the purpose for which it was legislated. Similarly, it was necessary for this clearly defined meaning to take on the character of a general law which applies to all women under all circumstances.

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Misunderstandings of the rationale behind the ḥijāb

This, then, is the rationale behind the ḥijāb, which is nothing more than the modesty which is expressed by the woman's concealing those parts of her physical being that might be a cause of enticement or distraction when she enters the sphere of partnership with the man in humanitarian work and in academic or social activities. In other words, the ḥijāb is simply a means of confirming the woman's partnership with the man in such tasks and activities and of protecting her equality with him in these spheres against the dangers which might threaten it.

Nevertheless there are people who, losing sight of this wisdom -- a wisdom which highlights the Lawgiver's great concern for the woman's participation with the man and her equality with him in all spheres of life -- contrive confused conceptions of the rationale behind this aspect of Islamic teaching. They assume, for example, that the Lawgiver imposed the ḥijāb as a means of educating and training the girl or woman, lifting her up to the level of moral integrity and helping her to avoid immaturity or waywardness. Then, after treating this assumption as a fact which they reiterate and affirm as being the wisdom behind this aspect of divine law, they proceed to criticize it, going on at length to demonstrate the absence of any connection between the moral woman who was raised on virtuous morals will not stop acting virtuously on account of the way she dresses and that, conversely, the girl who was raised far from virtue and who has developed a taste for rebelliousness and noncompliance will not turn virtuous simply because she puts on a long, loose-fitting garment, covers her head or lowers a veil over her face. This being said, they proceed to cite examples -- some of which may be genuine and others of which may be contrived -- of young women who cover everything but their hands and faces or who even cover their faces as well, and who have been caught engaging in shameful behavior.

In response I say: It is true that true upbringing and education arise from within rather than from how one dresses; indeed, never has the type or appearance of the clothes one wears taken the place of moral training. But, I ask: Which scholar of Islamic law told these people that the ḥijāb was legislated in order to regulate the woman's moral character, or as a means of inculcating certain behaviors in the girl or woman who wears it? Can they point to a single passage from a source book on Islamic law which affirms this claim? Rather, this groundless assumption is reminiscent of the Arab saying, "He trumped up charges of adultery against him to make him pay for something he didn't do."

The real wisdom behind the ḥijāb may be found in the reasoned, persuasive explanation which we have already presented -- an explanation of unquestionable validity -- as well as in the far-reaching, explicit declaration of the Qur'an, "O Prophet! Tell your wives and your daughters and the women of the believers to bring down over themselves [part of] their outer garments. That is more suitable, that they may be known [as free, respectable women] and not be abused. And ever is Allāh forgiving and merciful" [Al-Āḥzāb (The Confederates) 33: 59]. "....That is more suitable, that they may be known [as free, respectable women] and not be abused". Herein lies the wisdom behind the ḥijāb. Have you read these words and given them careful thought? The wisdom in this practice lies in the fact that the woman's sexually attractive features are concealed from the view of men who might happen to look at her lest the sight of her arouse some impulse to harass or harm her. So long as the sphere in which the man and woman come together is a social arena in which everyone is called upon to cooperate in building society and laying its cultural foundations, men will be able to see the woman as a partner with them in the various types of social and humanitarian service and endeavor.

In other words, the wisdom in the ḥijāb lies not in the fact that it helps the woman to adhere to virtuous morals; rather, it lies in the fact that it helps the men who look at the woman to practice self-restraint and, rather than dealing with her as a mere bundle of erotic stimuli, to relate to her as a human being who, like them, has academic and social skills to contribute to society and civilization.

We may assume that among those women who are engaged in shameful conduct, there are some who hide behind an appearance of modesty, which may even include the ḥijāb. However, granting this to be the case, does it follow, logically speaking, that we should hold modesty in contempt and resist the wearing of the ḥijāb? If so, then there is all the more reason to resist women's appearing in public in immodest, even seductive attire; after all, the percentage of women and girls who dress in this manner and who are engaged in the kind of improper conduct just mentioned is bound to be far higher than the percentage of those engaged in such conduct but who feign modesty by the way they dress. Yet despite this fact, we find that it is only modesty which comes under suspicion, whereas the titillating, sensual stimuli that announce themselves so brazenly are held to be innocent of the charge of arousing men's desires and weakening their moral impulses!

Is the ḥijāb an impediment to women's progress?

Those who are opposed to Islam for whatever reason often make statements such as the following: "Islam has fettered the woman with the chains of the ḥijāb!" "When Islam imposed the ḥijāb on the woman, it doomed her to backwardness." "Women's progress and liberation will only be possible when they are freed from the restrictions of the ḥijāb."

However, let us begin by freeing ourselves from preconceived notions, whatever they happen to be. Having done this, what might we say when we are asked: Is it true that the ḥijāb has impeded women's progress, casting them into a prison of ignorance and backwardness? And if so, then what is the connection between them? The reply which is dictated by objective thought unfettered by negative preconceptions is that there appears to be no connection whatsoever between the wearing of the divinely legislated ḥijāb and backwardness any more than there is between the ḥijāb and progress. Never has the shape, style, size or appearance of women's attire been known to have any influence on their intellectual propensities or their humanitarian activity. Ever since ancient times, nations and human societies have had widely varying traditions with respect to the design, shape and appearance of their clothing, both women's and men's. However, never have we heard that this variety in types of apparel had anything to do with the ways in which such nations and societies varied in terms of scientific and cultural progress.

The clothing worn by the Indians, both men and women, bears a unique stamp; so does the ancient, traditional attire worn by the women of Japan. Similarly, the clothing preferred by European and American women has a distinctive flavor. However, the people in these various cultures have never felt that the wide divergence among them with respect to the way they dress has to result in a corresponding divergence among them in the degree of advancement they experience. The civilizations which reigned during various periods of history, such as the Sassanid civilization, the Byzantine civilization, the Islamic civilization and others, never paused to discuss or reflect on something called "the clothes problem", since they didn't sense its existence in the first place.

Whence, then, comes this "fact" of which the entire world and its history are unaware? Must we classify Zenobia, or al-Zabbā', Queen of Tadmur, as ignorant and backward in view of the types of clothing in which she preferred to appear?[1] If so, then, we ought to consider the communities in black Africa who go naked as being among the most advanced, civilized of all peoples given their liberation from the notion of being restricted to clothing!

Throughout the Gulf region, there are women and girls who vie with the women of Paris's Latin Quarter and the clubs along the Champs Elysees in terms of their appearance, their adornment, and their freedom from restrictions. But, I ask: Have these women and girls been freed by this "magic spell" from ignorance and backwardness? Has this "liberation" on their part enabled them to have their names recorded in the register of advanced female scientists and scholars? By the same token, one finds other women in the heart of our Arab homeland, in Syria and Egypt, for example, who wear the ḥijāb and who have achieved the highest possible levels of education in a variety of academic disciplines and specializations. Has the modesty by which these women have responded to the rule of God Almighty served to negate the academic success, cultural influence and social activity for which they have been credited by their communities, transforming them in a moment of bewitchment, as it were, into women who are ignorant, reactionary and backward?

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[1] Known to the Europeans as Zenobia and to the Arabs al-Zabbā' or Zaynab, this woman lived in the 3rd Century A.D. and was named Queen over Syria, Tadmur and the Fertile Crescent. Although she was fabulously beautiful, Zenobia preferred modest attire and avoided pretentious adornment. Some writers believe that this Zenobia is to be distinguished from al-Zabbā', whose memory and exploits are celebrated in Arab history. See Dā'irat al-Ma'ārif by Muḥammad Farīd Wajdī.

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In the case of those who associate the ḥijāb with backwardness, it is possible that what they mean by the term ḥijāb is the confinement of women to what is known as a harem and exaggeration of the ḥijāb in such a way that it goes beyond the requirements of modesty to isolating the woman from society and depriving her of opportunities to participate in the realms of knowledge, employment and education. There have, in fact, been people both in the past and at the present time who adopt this extremist interpretation of the modesty and bodily concealment which God has instructed women to adhere to in the Qur'an; however, they represent only a small minority. This type of extremist interpretation can, in fact, lead to backwardness; however, this understanding is contrary to the divine law and its provisions. Hence, it is a grave injustice -- over and above the manipulation to which Islam has already been subjected and the untruths which have been spread about it -- to hold Islam accountable for the crimes which have been committed as a consequence of this extremist point of view as well as its other tragic outcomes.

The limits of the modesty which God has instructed the woman to adhere to are defined in the following mandate: "And tell the believing women to lower their gaze and to be mindful of their chastity, and not to display their charms [in public] beyond what may [decently] be apparent thereof" [Al-Nūr (The Light) 24:31]. That which appears naturally is agreed by the majority of Islamic scholars to refer to the hands and the face, while any other part of the body may be concealed without discomfort or hardship.

It is easy to see that this mandatory degree of modesty will not hinder the woman from any sort of social or academic activity she should wish to engage in. Those parts of her body which it would cause hardship to conceal, God has allowed the woman to reveal; or, to express the same truth in reverse, those parts of the woman's body which God has commanded her to conceal are those which may be hidden without any hardship. As for restrictions on the woman's contact with society itself or requiring that her entire body be concealed from head to toe in garments that limit her activity, obscure her vision and encumber her movements, let it be said that whether such restrictions have been imposed as a precautionary measure so as to avoid temptation and sin, or as part of a move to introduce innovations into the religion, it is impossible that the principles of Islamic law should be responsible for these restrictions or for their outcomes. However, this is not the situation which prevails in most Islamic societies.

It should also be noted here that if a woman realizes that there are men who are looking at her face in a desirous manner rather than obeying God's command to lower their gazes,[1] it is her duty to discourage them from persisting in their illicit glances and if she is unable to do so, many scholars of Islamic law hold that it is her duty to conceal her face from them in some manner. This being said, I would also point out that the assumption that men are looking at a woman in a given way may be rather theoretical and difficult to verify in all but a very few situations since, in general, the woman cannot be certain what people's motives are when they look at her. Besides, a Muslim woman is not supposed to be looking into strange men's eyes in the first place. Be that as it may, the principles of Islam teach us always to think well of other people and to interpret their actions based on the assumption that their motives are pure. This being the case, how would a woman know with certainty that someone is casting her illicit, lustful glances?

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[1] Just as believing women are commanded "to lower their gaze and to be mindful of their chastity [Al-Nūr (The Light) 24: 31], the same command is directed in the previous verse to men as well: "Tell the believing men to lower their gaze and to be mindful of their chastity: this will be most conducive to their purity - [and] verily, God is aware of all that they do" [Al-Nūr (The Light) 24: 30] [t.n.].

Men's selfishness and its role in their resistance to women's modesty

At this point, allow me to pose the following question: What do you suppose lies behind the call issued by certain men for women to cast off the restraints of modesty which God has imposed through Islam? Are they really motivated by zealous concern for the interests of society and by the desire to liberate society from the chains of backwardness and set it on the path of progress? I personally find it intriguing that some people would assume such men to be motivated by this type of pure-hearted, sincere concern for society or for the woman. Not only so, but I believe that anyone who accepts this assumption at face value is rather naive.

A man who attends a music or dance performance tends to choose those performances that will be the most titillating and which involve the most exposure of physical charms. Is there anyone who would doubt that such a person is simply out for his own enjoyment and satisfaction and that, in so doing, he is giving the sincerest expression to his selfishness? Is there any sensible person who, if he saw this man applauding enthusiastically for some female dancers' performance, would remain convinced that he is anxious about these women's welfare and ready to sacrifice his own interests for their sake? On the contrary, it is clear that what motivates such a person is unmitigated self-interest, a self-interest which he attempts to serve by exploiting others.

Let us take another example of the same phenomenon: Someone who admires a house and wishes to own it, or who sees some lovely furniture that strikes his fancy and which he tries to acquire, is no different from someone who admires a woman and makes an effort to build bridges between her and himself simply in order to derive pleasure from her. When such a man works to get the woman to appear before him in all her beauty and with all the alluring aspects of her being there for him to behold, he is simply exposing his own narcissism and self-centeredness.

Can this type of conduct be said to reflect genuine, disinterested love for others? Absolutely not! Rather, genuine love causes us to see ourselves in others; that is, to find our own happiness in caring for and protecting others. As for seeing others in ourselves; that is, seeing others as nothing but instruments by which to fulfill our own desires, this is self-worship in its most unadulterated form even if it happens to be wrapped in the attractive packaging of "love". How important, indeed vital, it is for society to discern the difference between these two attitudes and to treat each one in the manner it calls for.

Hence, we can all rest assured that the importunate call on the lips of so many young men for girls and women to free themselves from the restrictions associated with modesty and to try their luck at displaying their feminine charms here, there and everywhere is motivated by the same desire that drives audiences to seek out artistic performances that are more titillating and which involve bolder displays of women's bodily attractions, and which moves them to fervent applause whenever the sights before them strike a special chord in their souls.

As for the interests of these young women, be they models, performers, etc., and concern for their happiness and their fates, space does not permit a discussion of this theme here. Suffice it to say, however, that in the case of those who advocate and applaud the type of sham liberation we have described, the only thing they see in the young women whose "freedom" they claim to be upholding is themselves, and all they are really after is their own satisfaction.

It is the woman, in the end, who is victimized by all of this. Having been driven onto the path she now treads, she comes to love this or that man, hoping to find in her "sex partner"[1] someone who will take care of her and show her tenderness and affection. However, all she finds is someone who wishes to glean the fruits of pleasure at her expense, who sees her only as a means of taking care of himself and his instinctual urges, and who then goes on his way in search of still more delectable morsels in women who equal or surpass her in beauty. The tragedies experienced by many Western women offer vivid examples of what we are saying.

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[1] I have borrowed the term "sex partner" from the brilliant German authoress Esther Vilar (1935 - ...), a physician who studied medicine at the University of Munich in West Germany, after which she left her medical career in order to devote herself full-time to writing. Vilar's writings are marked by profound psychological analyses of the relationship between the sexes. Two of her most well-known books are **The Tamed Man** (Al-Rajul al-Murawwaḍ) and **The Man's Right to Take More** Than One Wife (Ḥaqq al-Rajul fī al-Tazawwuj bi-Akthar min Wāhidah).

There is no doubt, of course, that in this connection both men and women love themselves and are in search of ways to achieve their own happiness; but men, by virtue of their deceptive power, have managed to gain the upper hand and get what they want from the woman, exploiting her for the sake of their own self-realization. As for the woman, she has been defeated by virtue of her weakness. Surrendering herself to her tenderness and sensitivity, she is intoxicated by the dreams that have been planted in her imagination. However, she then awakens to the bitter truth, namely, that men have gotten from her everything they wanted without her getting from them even part of what she wanted!

Perhaps there are some readers who think that what I am saying is based merely on my own misperceptions and fantasies. However, all I am really doing is presenting a minuscule sampling of a reality which is so extensive and so cruel that even a book twice or three times this size would fail to depict it in its entirety. I know of numerous examples of this same phenomenon, and though I do not intend to present them here, I do think it is beneficial -- nay, essential -- to place before my readers the following instance:

One day a few years ago, there walked into my office at the College of Islamic Law a young woman who was feigning a ḥijāb -- or so it appeared to me -- by covering part of her hair. She requested my permission to sit down and tell me about her situation in the hope that I might point her to a way out of her dilemma or aid her in finding a solution. Her story, in short, was that she had been brought up in a household which had no understanding of the meaning of religion and which lived by none of its values. She received her education and cultural conditioning first in the schools, then in the university, without anyone to watch over her or advise her in a spirit of compassion and concern. She said, "From the time I started high school, boys started hovering around me, showing admiration for me and pushing me to be more 'liberated' in the way I looked and acted."

"So," she continued, "I went along with all this, and my heart turned into a kind of 'hotel room' that was occupied by one boy after another.

"When I went to the university I got even more involved with young men, and they all liked my liberated style. At the same time, there was constant pressure on me to 'liberate' myself even more and strive for self-fulfillment. During this same period of time, I got attached to a guy that I felt I'd come to love, and my feelings for him took over my whole being. He used to assure me of his sincere love for me and attachment to me, so I suggested that he approach my family about our getting engaged. His response to my suggestion was positive and enthusiastic. He said that marriage was what he had in mind and that he would approach my family about the matter in the near future. As a result of this growing trust, our relationship grew even stronger and deeper. Then, during one of our trysts, he managed to take from me the most precious thing I possessed. I'd been sure of his love and trusted his promises, and I'd believed my dreams that he was the one I could depend on and come to for protection.

"What happened during that one meeting happened again on other occasions and I started reminding him about the matter of our getting engaged and urging him to hurry in fulfilling his promise to me. As for him, he started putting me off and making excuses which I realized only later he was just making up.

"Finally during one of our times together, I demanded that he do what he had promised me with regard to talking to my family about our engagement. In response, he looked at me contemptuously and said, 'When I decide to get married, I'll look for an honorable girl, not one who makes herself into a plaything for all the guys!'

"What he said that day cut me to the quick. It was like a shout that wakened me out of a long, deep sleep to find myself surrounded by a crowd of 'playboys' who only wanted to make sport of me. I saw that I was a stranger in this world, even to my family, who had let me wander about aimlessly with no one to show me the way. Even so, I knew that if I told them what had happened as a result of their neglect and lack of concern, I'd be certain to face the worst fate imaginable."

Then, with great emotion, she said, "I know for sure now that if I had protected myself with the principles and wise counsel of Islam, no impostor could have taken advantage of me and I would have continued to have both happiness and honor. And now I don't know what to do."

I said to her, "Was it necessary for you to put God's commands to the test and plunge headlong into this devastating experience in order to arrive at this certainty? Wouldn't it have been enough to realize ahead of time that this religion, in essence, is nothing but the wise admonitions of the God who is the most Merciful of the merciful? Through these admonitions, God addresses His honored servants so that they can find happiness in the care and nurture they give and in the protection which they provide from all harm.

"You turned away from God over the past years, preferring to be led astray by the deceit of wanton, disreputable individuals rather than to be obedient to His commands and precepts. Even so, you'll find Him to be the only true Friend capable of comforting you in your alienation and of delivering you from your misery and pain. All it will cost you to find Him is for you to be reconciled with Him in sincerity and to obey His commands to the best of your ability and with confidence and assurance."

She said to me, "From now on, I promise God in repentance and remorse to obey His commands and submit to all His judgments. Never again will I pay attention to Satan's deception, and I won't give in to any sort of passion or enticement."

I said to her, "Come by to see me from time to time, and I feel confident that God will provide you a way out of your difficulty."

Then, in an extraordinary demonstration of God's grace, only three or four days later I was visited by a young man who had come to complain to me that he felt the need to get married but hadn't been able to find the right girl with the religious commitment that he wanted in a life partner. It was apparent that the young man was devout himself and committed to Islam based on genuine awareness and understanding.

So I asked him, "Would you be willing to consider a young woman with a pleasant appearance and whose religious faith and conduct you can be assured of? By marrying her you would merit a reward the likes of which only the most righteous attain, and I'm willing to vouch for the marriage myself."

"Yes!" he replied enthusiastically. "Who is she?"

I then told him the girl's story just as she had recounted it to me, and I assured him of my confidence in the sincerity of her repentance. As I spoke, he grew more and more happy and enthusiastic and in the end, he gave me the go-ahead to handle the matter as I saw fit.

Glory be to the One Who changes people's hearts! Praise be to my merciful, loving Lord, who opened people's minds and brought this union to pass, wiping away the crushing sorrow that had threatened to quench the spirit of this unfortunate girl who had fallen victim to profiteers --

profiteers of the call to "progress" and the warning against "backwardness."

In short, God gave me success in bringing these two together. In a single introductory session, they established a dialogue, affirmed their confidence in each other and exchanged pledges. The young man then arranged with her family for their engagement in the customary manner and God joined them in a comfortable, happy marriage beneath the protective umbrella of mutual commitment to His blessed teachings. Truly did God speak when He declared, "O you who have believed, respond to Allāh and to the Messenger when he calls you to that which gives you life" [Al-Anfāl (Spoils of War) 8: 24].

This girl's story illustrates both the consequences of following the advice of the cunning and the disingenuous, and the fruit of obedience to the teachings of the Wisest of the wise and the most Merciful of the merciful, may His glory be exalted. I have numerous other examples at my disposal which would serve both to increase thoughtful people's certainty of God's mercy, bounty, wisdom and compassion and to warn against the craftiness of the crafty and the deceit of ego-driven exploiters.

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In sum, the modest attire which God has legislated for the woman does nothing to reduce her status *vis-a-vis* the man; on the contrary, we have seen that it is precisely the restraints associated with the ḥijāb which have preserved the woman's genuine, effective participation with the man in all of the various human, social and academic spheres, and that it is when the woman is stripped of the disciplines associated with modesty -- and which are, in essence, what the Islamic ḥijāb translates into concrete practice -- that she is brought down from the level of true partnership with the man to that of a "geisha girl" whose sole function is to provide for men's enjoyment and recreation.

Understood in terms of its recognized legal definition, the ḥijāb has never once been a stumbling block on the path of progress or an obstacle to women's reaching the highest levels of knowledge and understanding. Similarly, we have seen that the aim of the Islamic requirement of the ḥijāb is not to instill virtue in the girl or woman who wears it; after all, it is only reasonable that people's outward apparel could never take the place of the actions and attitudes involved in a sound education and a virtuous upbringing. Rather, the ḥijāb is required in order to protect the souls of the men who look at the woman lest their physical, instinctual desires prevent them from appreciating the woman's identity as their intelligent, thinking counterpart and her efforts alongside them in the realms of thought, knowledge and constructive activity. Otherwise, men are liable to be so distracted by the beauty of the woman's hair, clothing and physical form that they miss out on the beauty of her poetic ability, literary mastery, and other inward strengths.

Texts from misunderstood prophetic traditions

We come in this section to still another of the props on which Islam’s opponents lean for support in their claims against this religion and its law, seeking to create the illusion that Islamic law has sanctioned the principle of inequality between the man and the woman, relegating the woman to a position of inferiority.

In this connection, there are two particular prophetic traditions, or sayings of the Messenger of God (pbuh), which they seem to believe will fulfill their hopes of alienating the woman from Islam and urging her to free herself from its rulings and restrictions. According to one of these traditions, narrated by al-Bukhārī and Muslim based on the account passed down from Abū Sa‘īd al-Khudrī, the Messenger of God (pbuh) was once speaking to a gathering of women and, among a number of other things, said to them, “Never have I seen a woman deficient in common sense and religion more adept than the likes of one of you at stealing away the heart of a prudent man!” As for the second tradition, narrated by Aḥmad and al-Nasā’ī based on the account passed down from Anas Ibn Mālik, it tells us that the Messenger of God (pbuh) once said, “If I were to command one human being to bow down to another, I would command the woman to bow down to her husband due to the solemnity of his right over her.”

Where, then, do the misperceptions lie in such critics’ understanding of these two statements? In connection with the first saying of the Prophet (pbuh), let us begin by noting that one of the things indicated most clearly by the context of the statement is that he (pbuh) addressed these words to women by way of the sort of friendly banter which we all engage in on occasion. This may be seen clearly from the fact that the Prophet (pbuh) uttered his statement about the [so-called] deficiency in their intelligence as a way of leading up to his subsequent, opposing declaration about the ability with which women have been endowed, namely, the ability to captivate men's minds and steal away the hearts of the mighty and powerful despite their unflinching determination and positions of influence. It is as if someone were to say to his friend, "Short as you are, look at all you're capable of doing that others aren't!"

Thus, this saying of the Prophet (pbuh) is not so much a disparagement of the woman as it is an expression of wonder at her power over the man. However, regardless of what the focus of the statement happens to be or what is indicated by its context, let us now go on to ask: Is what the Messenger of God (pbuh) says here true or not? Based on the findings of psychology in general, and educational psychology in particular, the woman is more emotionally intense than the man and less intellectually inclined than he is, whereas the man is more intellectually inclined than the woman and less intense than she is emotionally. We will also be aware that this complementary contrast between them is the secret behind the happiness which each gender finds in the other. After all, if the woman had the man's patience with abstruse intellectual issues and if she were characterized by the same emotional poverty and dullness of feeling, the man would find living with her to be so tiresome and miserable that he would look for happiness by getting away from her! Conversely, if the man had the woman's emotional sensitivity, sentimentality and intellectual disinclination, the woman would no doubt fail to find in him the protection and care that she seeks, and she would find it unbearable to live with him!

Hence, we find that such differences between the man and the woman reflect a divine wisdom, since they make it possible for each gender to find in the other that which makes up for what he or she lacks; this, in turn, is what causes them to be drawn to one another as they are, and the result bespeaks the delicately balanced equality which exists between them.

It goes without saying, of course, that there are exceptions to this divinely instilled pattern. One finds, for example, men who are characterized by intense emotion, sensitivity, and impatience with difficult intellectual questions. However, psychologists consider such qualities to be anomalous among men. The same type of anomaly in reverse can be observed among women; thus, one might find a girl who is only content when she is dealing with treatments of philosophical conundrums or delving into other types of complex intellectual questions; at the same time, you might find such a girl to be unemotional and lacking in sentimentality. Here again, though, psychologists would simply see her as an exception to the rule.

At the same time, it would hardly occur to anyone that such exceptions should be viewed as though they were the rule. I once had a friend who had married a woman who suffered from this abnormality, if you will. Every chance he got, this man would complain about how unhappy he was with her and talk about how painful it was to be deprived in his marital life of a female who would shower him with tender emotion. He would grumble to his friends that his wife was a "philosopher", and that fate had decreed that he should be the first sacrificial victim to be offered up on philosophy's altar!

Moreover, if you give careful thought to what the Messenger of God (pbuh) says here, you will note that he links two aspects of the woman's person and life between which there exists a dialectic -- a dialectic which, in reality, is the source of both the woman's contentment and the man's contentment with her. Specifically, the Prophet (pbuh) describes the woman as "deficient in common sense" (as for the phrase, "deficient in religion", we shall discuss this below), while at the same time he describes her as being dominant over the man and able to control him. How is one to explain this?

The explanation lies in the fact that what the woman looks for in the man is, in addition to a sexual partner, someone who will provide her with protection and care, and this requires that she be weaker than he is. Moreover, this weakness is itself a necessary condition for her to be able to control him. By means of this simple equation one may see that the woman's weapon, as it were, lies in her weakness, and that her dominion over the man derives precisely from her need for him and her seeking him out for protection, while her need for him finds visible expression in the man's being physically stronger than the woman and intellectually more capable.

However, given the fact that men who make such statements may place themselves under suspicion, allow me to quote in this regard from German writer Esther Vilar's profound, engaging book, Ḥaqq al-Rajul fī al-Tazawwuj bi-Akthar min Wāḥidah (The Man's Right to Take More Than One Wife), where she states, "Although bodily strength may be an adequate means of exerting pressure and exercising control in a given social class, it will never succeed in subjecting one gender to another. The person who is most capable of vexing another is the one who is weak and in need of help, not the one who is physically stronger. It is not the lover who wields authority, but the beloved."[1]

Vilar asserts in more than one place in this book of hers that the woman will only rely on a man who has a sharper mind than she does and beside whom she may even appear stupid and naive. After all, this is a vital condition for her being able to seek protection with him, bearing in mind that she looks to the man for protection and care before she looks to him for sex. She says, "As far as women are concerned, they can wield their power over men by restraining their own sexual desires, thereby causing men to become dependent on them; and since women tend to be weaker both physically and intellectually than men, they are able -- in addition to the possibility of withholding themselves sexually -- to get men's attention by virtue of their being objects of their care and protection."[1] Somewhat later Vilar also states, "Only when the woman is weaker and less intelligent than the man does she become alluring and attractive to the latter."[2] Vilar then goes on to confirm this fact on the lips of women themselves, saying, "Women are known to have said such things as, 'The man that I want is one who can protect me, and he won't be able to do that unless he's taller than I am, physically stronger than me, and smarter than I am,' or, 'The man that I would want is one who's enough taller than I am that I can hide in his shadow, and that I have to raise my eyes in order to look into his face.'"[3]

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[1] **The Man's Right....**, p. 34.

Thus, we have confirmation in the form of testimonies by women themselves that the woman tends to be both physically weaker than the man and less intellectually inclined and that she is not bothered by this but rather, sees it as evidence of her "feminine weakness" which is, in reality, the capital which she puts to use in dominating the man while at the same time enlisting him as her caretaker and protector.

I ask: Did the Messenger of God (pbuh) say to the woman -- albeit in a tone of friendly banter -- any more or less than this? I find it quite peculiar that if those who take offense at

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[1] Ibid., p. 17.
[2] Ibid., p. 20.
[3] Ibid., p. 24.

Islam and who engage in the disreputable practice of fabricating untruths about the religion, announcing these untruths in public circles, particularly in women's circles, and criticizing it in the most strident tones -- I say, I find it quite peculiar that if these same people hear what is said by psychologists and by writers the likes of Dr. Vilar, their critical tongues fall silent and they listen with respect and receptivity, if not outright reverence and submission!

* * *

It remains for us to ask: We have discussed the point of disparity between women's and men's intelligence. What, then, is the nature of the disparity between them where religion is concerned? What has determined that the woman be "deficient in religion", and what degree of responsibility, if any, does she bear for this?

In response to such queries, let me say first of all that the term "deficiency in religion" may be used to refer to a lesser number of duties and responsibilities for which one is held accountable for some reason, in which case the person who is not held accountable for more than these particular duties is not viewed as responsible for this fact, whatever the reason for it happens to be. This term might, on the other hand, refer to willful negligence on the part of the person concerned. Thus, for example, a child or an adolescent who has not yet come of age is described [in Islamic law] by the term "deficient in religion"; however, this does not mean that the child or adolescent thus described is responsible for any offense or negligence associated with his religion. On the contrary, he may be more actively, enthusiastically engaged in performing both obligatory and voluntary actions associated with worship and the like than some adults are. Nevertheless, he is still described by the legal term "deficient in religion."

As for someone who is lax in obeying God's commands and who shows disregard for the limits God has set, he or she is also described by the term "deficient in religion"; in this case, however, the term refers to a deliberate, willful neglect and lack of commitment to the principles of the religion. Consequently, this person bears guilt for his or her action or lack of action and the responsibility resulting from his or her "deficiency in religion", which in this case bears the second meaning mentioned above.

This being said, it may be seen that when the Messenger of God (pbuh) applies the description "deficient in religion" to the woman, the term bears the first meaning, not the second. What he means, then, is that God has lightened some religious obligations where the woman is concerned, exempting her entirely from others. For example, the woman is not required to pray while she is menstruating or during her postpartum bleeding; nor is she required to make up for prayers missed during such periods of time. She is also exempted from the duty to recite from the Qur'an during such times, yet without any diminution in the reward due her from God on this account, since her not praying or engaging in Qur'anic recitation at these times is not due to any remissness on her part but rather, due to a lightening or mitigation from God Himself.

In cases such as these, the woman is described as "deficient in religion", that is, having a reduced number of religious responsibilities, and God forbid that this term should be taken to mean that she is remiss toward her religion, since she has no choice in something which has been imposed on her by God. Some of the clearest evidence for what we are saying lies in the fact that the Qur'anic revelation declares in more than one place that the man and the woman who are committed to obeying God receive equal rewards; the man's recompense is neither more nor less than the woman's. We read, for example, "And their Lord responded to them, 'Never will I allow to be lost the work of [any] worker among you, whether male or female; you are of one another" [Āl 'Imrān (The House of 'Imrān) 3: 195]; "And whoever does righteous deeds, whether male or female, while being a believer -- those will enter Paradise and will not be wronged [even as much as] the speck on a date seed" [Āl-Nisā' (Women) 4: 124].

At this point someone might say: "What God states here is conditional on the performance of good works, and the woman is prevented during her menstrual and postpartum periods from performing the most important of all such works, namely, ritual prayer. Consequently, the condition stipulated for both men's and women's receiving reward has not been fulfilled." In answer to this objection, it should be noted that the source of all merit and reward is responsiveness to God's commands in pursuit of His pleasure and approval; such responsiveness, just as it may take the form of outward actions, may also take the form of inward commitments. The woman who has been commanded by God not to engage in ritual prayer during her menstrual period is, without a doubt, rewarded for carrying out this command so long as her intention in doing so is to obey God; her refraining from prayer during this time in terms of the reward she merits thereby is the same as others' engaging in prayer during the same period of time. In other words, someone else's action and the menstruating woman's inaction under these circumstances are both sources of merit and reward provided that what motivates each of them is the desire to carry out God's will and win His favor.

How many women have found themselves longing to take part in the tarāwīḥ prayers during the month of Ramaḍān during their days of menstruation. However, they refrain from doing what they would so much like to do in order not to incur God's displeasure, in obedience to His commands, and in the hope of meriting His favor. In this situation, the woman is suffering on account of an extenuating circumstance or condition because of which God has forbidden her to engage in ritual prayer. There is no doubt that her abstention from prayer here is not only a form of worship, but an expression of the most genuine servitude to God Almighty, and no one but God alone knows the extent of the reward which awaits her for this obedience on her part. Otherwise, what could be the meaning of the prophetic sayings, "Actions are only as valid as the intentions behind them, and whatever a person intends, he or she shall attain,"[1] and "God looks not at your outward appearances or at your actions, but at your hearts"?[2]

Hence, it may be seen that the Messenger of God (pbuh) has described an aspect of the woman's existence for which she bears no responsibility; nor does it indicate any deficiency or culpability on her part.

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Let us now turn to the prophetic tradition in which the Messenger of God (pbuh) states, "If I were to command one human being to bow down to another, I would command the woman to bow down to her husband due to the solemnity of his right over her."

The point of ambiguity in this saying is that the image of the woman which might be derived from it is that of a mere slave who owes her man, that is, her husband, a degree of allegiance bordering on adoration. For the woman to be described in this manner vis-à-vis the man negates nearly all imaginable sense of equality, or even the appearance thereof, between the man and the woman, causing the family to be based on the twin foundations of master and servant.

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[1] Narrated by both Muslim and al-Bukhārī based on the tradition going back to 'Umar Ibn al-Khaṭṭāb.

[2] Narrated by Muslim, Ibn Mājah and Aḥmad based on the tradition going back to Abū Hurayrah.

In reply to this ambiguity, which would only occur to the hastiest, most superficially minded person bent on reaching a particular goal on which he has set himself -- as occurs in the cases of some journalists who snatch up news items based on nothing but hearsay and related events in their rush to make a quick, profitable "scoop" -- I say: in reply to this ambiguity, we may note the following:

Those who pause at this prophetic tradition in which the Messenger of God (pbuh) addresses the wife, reminding her of the husband's rights, should likewise go in search of the numerous other traditions in which he (pbuh) addresses the husband, reminding him of the wife's rights. Having done this, they should then compare the two reminders and ask themselves which of the two spouses bears the heavier burden in favor of the other? In the face of such a comparison, one will be hard pressed to decide which of the two spouses has more solemn rights than the other! The ambiguity or problem will then turn into something else; in other words, the question then becomes: Why does the Messenger of God (pbuh) whisper this earnest reminder in the wife's ear concerning her husband's solemn rights over her, only then to turn around and whisper a similar reminder in the husband's ear, placing before him the sacred burden of his wife's rights over him? What are we to make of these two corresponding -- perhaps, in fact, conflicting -- appeals?

At this point, I can imagine some superficial readers armed with objections and criticisms, asking me in disbelief and amazement: And did the Messenger of God advise the husband concerning his wife in the way he has advised the wife concerning her husband? Did he (pbuh) stress the wife's rights to the extent that he stressed the husband's rights? In answer, we say: Yes, he did. We herewith present to you the following admonitions and commands with which the Messenger of God (pbuh) addressed the man, reminding him in all forcefulness of the wife's rights and the importance of respecting them.

The Messenger of God (pbuh) said, "Women are men's full sisters. No one but an honorable man shows them honor, and no one but a mean-spirited man debases them."[1]

He (pbuh) said, "The best among you are those who show the best treatment to their families, and I show the best treatment to my family."[2]

He (pbuh) said, "Those believers with the most perfect faith, and who merit the seats closest to me, are those who are the kindest to their families."[3]

He (pbuh) said, "Treat women with the greatest of concern, for their welfare is subject to your good will. You have taken them under your care as a trust from God, and their bodies have been made lawful to you by the word of God. You have rights over them, and they have rights over you."[4]

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[1] Narrated by Aḥmad.

[2] Narrated by Ibn Mājah and al-Hākim.

[3] Narrated by al-Tirmidhī and al-Hākim based on the conditions for authenticity approved by Muslim and al-Bukhārī.

[4] Narrated by Ibn Mājah and al-Tirmidhī.

Note the educational effect which is brought about by these admonitions with which the Messenger of God (pbuh) addresses the woman, urging her to care for her husband and show concern for his rights, and with which he addresses the husband as well, urging him to care for his wife and show concern for her rights, when both the woman and the man appreciate the value of these admonitions and realize that they come from the Messenger of God (pbuh). Specifically, the effect of these admonitions will be that both spouses vie to win each other's hearts, with each of them striving to achieve this goal by following the path to which the Messenger of God (pbuh) has directed them and which he has commanded them to adopt. The wife, for her part, will spare no effort to endear herself to her husband by serving him, nurturing him, and making him happy in any and all ways that she can, while the husband, for his part, will spare no effort to demonstrate his affection for his wife, seeking in every way he knows to bring her happiness, offering her help in various household tasks and affairs and treating her with the utmost kindness and compassion. And in all of this, each of the spouses is motivated to act in this way in order to carry out the teachings of the Messenger of God (pbuh).

Imagine two spouses, both of whom are vying to win the other's heart in this way. How do you expect their relationship to be, and what place do you think love will have in their lives? In the case of two spouses such as these, their love may start out small; however, it will soon begin to grow and grow, after which it will go on developing and flourishing like a tree that receives care and constant watering. Such a couple's honeymoon will last a lifetime. By contrast, imagine a marital life which begins in disregard for these admonitions of the Messenger of God (pbuh), far from any commitment to the teachings of Islam and its associated way of life. The love between the two spouses may start out "big" in the excitement of their initial meeting and living together within the bonds of marriage. However, it will not be long before their love begins to grow smaller and smaller until, eventually, its passionate ardor cools and their relationship settles into a life of tradition and monotony at best and, at worst, a life filled with disputes and turmoil.

Note the difference between the marital relationship in the reality that prevails in Western life on one hand, and in the households of committed Muslims on the other. According to Esther Vilar, the former is based on the husband's voracious sexual appetite, and on the wife's exploitation of this appetite in order to impose the necessity of his protecting and caring for her. In other words, each of the spouses exploits the other for his or her own self-interest, the inevitable result of which is the dissolution of the marital "knot", as it were, and the transmutation of romantic "niceties" into contention, bitterness and hatred as soon as one of the two partners ceases to be able to carry on with the deceit required for such exploitation, just as this German writer so accurately states. As for the latter, namely, marriage in committed Muslim households, it is based on self-sacrifice for the sake of the other spouse's interest in a quest to merit God's favor. The inevitable outcome of such a situation is that love's flame is ignited in response to this one-of-a-kind competition between the two spouses; this, in turn, provides a sufficient guarantee of the marriage's stability and their continuing to live together in affection and harmony.

This, then, is the aim of the two admonitions we have just discussed, one of which is addressed by the Messenger of God (pbuh) to the husband and the other of which he (pbuh) addresses to the wife. And this is its fruit. This fact is lost on no one but those who have closed their ears or their eyes to the body of his (pbuh) teachings and exhortations and have chosen, instead, to focus on a single saying, namely, "If I were to command one human being to bow down to another, I would command the woman to bow down to her husband due to the solemnity of his right over her."

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Another saying of the Prophet's which may have a bearing on the issue of misunderstood texts which we have been discussing is the following: "Of this earthly world of yours, I have been given a love for perfume and women, and I find my greatest delight in ritual prayer."

Those who have been steeped in the vulgar conception of love and who have come to take feelings and Western-style romantic relationships as the sole yardstick by which to gauge it are bound to interpret the "love" of which the Messenger of God (pbuh) speaks here in light of the notions already present in their own minds and the qualities which have come to characterize their own personalities. At the same time, there are shallow Muslim intellectuals who turn a blind eye to prophetic sayings such as this one, passing over them or ignoring them on certain occasions lest they embarrass themselves in connection with a matter which, as they mistakenly understand it, would enmesh them in complications from which they would find no escape! This studied ignorance which has come about as a result of superficial knowledge and understanding might possibly be a greater evil than the vulgar conception of love entertained by such people's secular counterparts.

However, the fact which will be apparent to any reflective person who has studied the life story of the Messenger of God (pbuh) from beginning to end is that this statement which the Messenger of God (pbuh) made about himself presents us with another of the virtues for which he was so well known. These words of the Prophet (pbuh) draw our attention to a unique manifestation of his sublime humanity and the purity of his innate disposition; in fact, they reveal to us one of the most significant aspects of the prophetic message with which he (pbuh) was sent to people as guide and teacher. In sum, Muḥammad (pbuh) was sent "to perfect virtuous morals" as he said about himself.

It is a known fact that any approach which a person takes in his or her life and relationships is bound to have two sides, as it were: a side of evil and corruption, and a side of goodness and righteousness. The task with which the Chosen One (pbuh) was sent was to lead people in all their affairs along the path toward the ideal, that is, the side of goodness and righteousness, both in his spoken, hortatory message, and in his practical, explanatory actions.

At the time when Muḥammad (pbuh) was sent on his prophetic mission, the Arabs took pride in the ideals of manly virtue, gallantry and self-respect. However, they lived out these concepts in a corrupt manner rather than in a righteous one. Honor had tremendous value among them; however, as a rule, they only knew how to preserve honor in a manner that was corrupting. They used to celebrate sentiments of love for the woman and they would convey many such sentiments through their romantic poetry and their sexual relationships. Nevertheless, they would demonstrate this love in a way that led to corruption rather than righteousness, that is, in a manner which was self-centered, immoral and reckless. The Arab man's love for the woman during the pre-Islamic era was an expression of his instinctual need for her; hence, as soon as he had satisfied his desire for her, she became a mere chattel which could be cast into some corner of the house. As such, she could be owned, but she had no right to own; she was to obey others' orders without issuing any orders herself; she was to bow to the man's rights without his bowing to any of her rights.

If the man's instinctual urges were aroused again, he would go back to his old love songs, as it were, in the hope of satisfying his ego through the language of longing and passionate ardor. However, once he had gotten what he wanted, he would fling the chattel back where it had been before, ignoring it once again. After all, the woman, as they used to say of her, was, indeed, a mere plaything in a corner for others to amuse themselves with whenever they felt the need.

The mission of the Messenger of God (pbuh) was thus to correct these conditions, to reform such behavior, and to reveal the authentic human dimension of these topsy-turvy relationships and backwards concepts. Moreover, it may well be that the understanding of the man's relationship with the woman and the love between them upon which this understanding is based was among the most critical of such conditions and the most in need of attention and rectification.

The Messenger of God's task of correcting these conditions and highlighting their proper social and human expression was not to be carried out merely through theoretical teachings and advice. Rather, it was to be fulfilled likewise -- and this is the most significant thing -- through his being an exemplar in his own conduct. Herein lies the wisdom in the fact that God molded him (pbuh), as it were, into an ideal exemplar of well-guided human morals, sound social relations, and the proper allowance for human instincts.

Hence, it was necessary, in order for the Messenger of God (pbuh) to be able to correct the prevailing understanding of the man's love for the woman and restore it to its proper human dimension, for him to provide the Arabs, as well as all other people, with a practical means of clarification through his own person, that is, an example based in real conduct. Through his public human morals and his relations with others, he (pbuh) has shown us the proper, indeed, the ideal, foundation upon which social life in every age should be based. Thus, we find that the life of the Prophet (pbuh) reveals to us the ideal human and social expression of the relationship between men and women in general, and of the man's love for the woman in particular; similarly, it shows us the ideal human expression of other social morals and relations.

Indeed…the Messenger of God (pbuh) has drawn our attention to his love for the woman through his statement, "Of this earthly world of yours, I have been given a love for perfume and women…." However, we look, and what we find is that in so saying, he (pbuh) has presented us with the most sublime human expression of the relationship between the man and the woman. We look, and we find that he has translated this love into the lofty social position to which he has elevated the woman. Under Islam's protective rule, she has been granted full competence: She may be consulted just as the man is, and she likewise may seek counsel; she is to be obeyed in every instance where she issues a sound opinion; she may enter into legal contracts with men and file suit against them in a court of law; she inherits and bequeaths; and she deserves the very same wages for whatever work she does well that a man would deserve. All such points have been dealt with in detail.

Thus, the Prophet's declared love for the woman is a practical means of clarifying what kind of relationship should exist between the man and the woman within the context of inborn human nature and instinct. The meaning of the exemplar of which God caused the Prophet (pbuh) to be a source and herald is not realized among people by means of words and counsel alone; rather, it finds clear, concrete expression through action and behavior.

Consider now the practical elucidation of the Messenger of God's love for the woman through his relationships with his wives. Do you find anything in this love which would have been degrading or lowered his moral status to a way of conduct that would detract from any humanitarian principle, moral value or Islamic ruling?

If this love of the Prophet's had been in pursuit of pleasure and caprice, this fact would have become apparent from the manner in which he was known to live at home with his wives. Moreover, if this were the case, his life with them would not have been one of hardship, discomfort and self-denial. Nor would he (pbuh) have given his wives the choice -- when they wished to have more of life's pleasures -- between divorce along with whatever enjoyment they might seek, and preference for the afterlife and staying with him (pbuh) in the life of austerity he was living. In fact, one would have expected the Messenger of God (pbuh) to be even more eager than his wives themselves to provide them with the adornments and comforts of this earthly life.

If Islam were to speak through a prophetic saying which introduces people to its essence and its most salient characteristics, it would say: Its basic fabric is made of love. And if this love were to speak, introducing people to its most fundamental, pristine nature, it would say: My true character is revealed through love for the Messenger of God (pbuh).

Chapter Four

Holdovers from Pre-Islamic Practices

Introduction

One day as I was treating this subject during an episode of my weekly program on Syrian television entitled, “Lessons from the Qur’an,” a listener said to me, “Our societies are filled with events and practices which are in conflict with these theoretical ideals that you present. You criticize and blame Western societies for their faults, but where do you stand on the UN resolutions which affirm women’s rights and go to great length to defend these rights?”

I reflected for a while before responding to the bizarre, farcical trial to which this critic wished to subject me. Critics such as this one want me, when I look at our Arab and Islamic societies, to forget the Islamic policies and laws which elevate the woman’s status to a position of honor and dignity, and to focus exclusively on the customs and practices that run counter to such laws, whereas when I look at Western societies, they want me to overlook the practices and customs which undermine women’s status and to focus solely on the resolutions and laws which exist on paper and which are safely ensconced in the drawers of the United Nations or in the annals of some other legislative body. Why, then, this unabashed, blatant one-sidedness? Why am I asked to forget the laws and principles of Islam as they apply in Islamic societies and to remember certain limited numbers of regrettable occurrences which take place there, after which I am asked to forget most or all of the regrettable occurrences which take place in Western societies while focusing entirely on their written laws and resolutions?

However, leaving this contradictory expectation aside, let me proceed directly to the response I gave to this critic. I said: It is Islam which is placed under suspicion by those who speak or write about the woman and her rights, whether they are Westerners themselves or merely custodians of Western society in the East. However, no such suspicion is ever attached to the anachronistic habits which prevail in certain villages, or to the firmly entrenched pre-Islamic practices which certain ignorant folks have clung to over the ages. And even when they do discuss such aberrant customs, they speak of them -- whether based on their own misunderstandings or in a deliberate attempt to deceive others -- as though they were consistent with the teachings of Islam.

It has become a matter of common knowledge that those who detract from Islam by means of a feigned defense of the woman and her rights are motivated not by true concern for the woman but rather, by personal bitterness toward Islam. Moreover, I know for a certainty that among those who pride themselves on their defense of women and their rights through their attacks on Islam, there are some who are unthinkably abusive toward their own spouses.

If this is the visible reality, then the issue that needs to be dealt with is not the survival of such pre-Islamic practices up to the present time but rather: Is it true that Islam has lowered women's status and that it is responsible for such practices? What we seek to do here is to expose the untruths that are being circulated about Islam while, at the same time, clarifying the extent to which Islam honors the woman through its divinely revealed laws and precepts. In addition, we point out the negligence of those who, ignorant of the true nature of Islam, cling fanatically to archaic practices which are in conflict with God's law, and we insist on the necessity of resisting these same practices.

As we will see, such customs are only fostered in households which are estranged from the guidance and principles of Islam. Households of this nature are either those of religiously ignorant people who are impoverished in terms of general culture and education and who, as a consequence, are dominated by groundless prejudices; or of those who take pride in Western culture and its ways. However, just as the woman is wronged in the first type of household, she is likewise wronged -- and even more seriously -- in the second type. Although this is a fact not known to everyone, I, for my part, count myself among those who know it all too well.

Be that as it may, it is now time for us to examine reality itself and, in light of what we see, to ask to what extent the rulings and principles of Islam which we have explained thus far actually apply to the present condition of our Arab, Islamic societies and households. As we do so we will, as I have noted, encounter departures from Islam and practices which are not supported by true religion. However, we will also find that these departures are few and far between and that they are increasingly on the wane. We will also find that the only thing that protects society from such aberrations is the prevalence of genuine Islamic awareness and commitment and the constant appeal to its truths.

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The view of women held by some

One particular long-lived custom which is still prevalent in some families today is the view of the woman as a kind of secret which must be concealed, and the notion that any public contact between her and the man detracts from his value and diminishes his standing. According to this point of view, a husband must not let anyone outside his household know what his wife's name is; neither should a father let others know his daughter's name, nor a brother, his sister's name. If any of these men should discover that her name has "leaked out" some how, he feels as though he has been exposed to a terrible ignominy. Consequently, the man will take care not to let his wife, his daughter or his sister walk with him in the street or accompany or be associated with him anywhere in public, and if necessity requires him to go out with her, he makes certain that she follows him at a sufficient distance to keep anyone from discovering the shameful fact of her walking with him, or his walking with her! In addition, any evening gatherings he takes part in must be attended only by men, since it would be a major failing on his part to find enjoyment or solace in gatherings attended by women, their fatuous conversations or their trivial problems!

Another aspect of this way of thinking is that if it comes to the knowledge of a girl's or woman's husband, brother or father that she has fallen victim to sexual temptation or seduction, this constitutes the one crime for which no intercession will avail -- not even that of a revealed book or a prophet sent by God -- and on which they alone, unaccountable to any law, are qualified to issue a verdict. One fate, and one fate alone, awaits the girl or woman in a situation such as this, namely, to be killed. As people of this persuasion put it, such a slip is "the shame which can only be washed away by blood."

But, we ask: What about the far greater numbers of such crimes which are committed by husbands, brothers and fathers, and which do not need to be purged with blood? Indeed, why are such transgressions simply forgiven and not even mentioned? Why is it that the males who commit them feel no shame and no sense of failure for not suffering their consequences? And the answer we receive is: The man is a man, and men are naturally disposed to adventure and to satisfying their instinctual desires; whereas the woman is a woman, and the woman is nothing but a mass of vices and defects that's meant to be kept hidden away!

This is a realistic description of some households in which such practices hold sway. And regardless of how few or how numerous such households happen to be, our task here is simply to denounce them, to show how inconsistent their thinking and conduct are with the principles and morals of Islam, and to call upon our readers to resist such thinking and conduct and to root them out of our societies.

As for the notion that the woman is a shameful secret which must be kept out of sight and that any public contact between her and the man will degrade him or diminish his standing, there is no verse in the Qur'an and no sound prophetic tradition to support it in any way. On the contrary, the message of the Qur'an and the practice of the Prophet (pbuh) demonstrate the falsity of such an idea. The Messenger of God (pbuh) used to go out with his wives, with whom he was brought together on a single, shared path. According to a sound prophetic tradition, the Prophet (pbuh) was taking a walk at night with his wife Ṣafīyah when two of the Helpers passed by. When the two men saw the Prophet (pbuh), they quickened their pace [as if to distance themselves from him (pbuh)]. So he (pbuh) called out to them, saying, "Don't be in such a hurry! This woman is Ṣafīyah, daughter of Ḥuyay." The men replied, "Glory to be to God, O Messenger of God!" Then he said to them, "Satan's power runs so deep in human beings, I feared that he might cast evil into your hearts."[1]

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[1] This tradition, attributed to Ṣafīyah, is recorded by al-Bukhārī and Muslim.

What we learn from this tradition is that the Messenger of God (pbuh) was not ashamed to go walking outside with his wife, and that he saw nothing wrong with introducing her and mentioning her name. We also know that he (pbuh) used to gather for evening chats with his wives. They may have found enjoyment in exchanging stories and anecdotes, and he (pbuh) would join in with them; he may even have reminded them of stories they had forgotten. He thus did not consider it a shortcoming on his part that he enjoyed this pastime; on the contrary, he saw it as a means of drawing near to God Almighty. According to a tradition relevant to this theme, ‘Ā’ishah once told the Messenger of God (pbuh) an anecdote which was often recounted in women’s gatherings, known as the story of “Umm Zar‘”, and when she was finished, he (pbuh) said to her, “I am to you as Abū Zar‘ was to Umm Zar‘.”[1]

Yet despite the Prophet’s statement, “The best among you are those who afford the best treatment to their wives,” there are men who do exactly the reverse of what the Prophet (pbuh) has commanded them to! When a man of this sort is with his friends and acquaintances and with people in the marketplace, he is cheerful and friendly, full of kind words, and careful to treat people with the greatness of courtesy and thoughtfulness, but when he comes home in the evening, he turns sullen, gloomy and taciturn, he puts on a dignified air, and he restricts his conversation to serious matters. I happen to know that there are women who long to have men come to their houses and to enjoy the kind of familiar banter and pleasant conversation which they have been deprived of in their husbands, even if it only takes place across a barrier, and even if it is only available to them with other women!

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[1] The tradition of “Umm Zar‘” is narrated by al-Bukhārī and Muslim on the authority of ‘Ā’ishah.

I often used to wonder to myself: Praiseworthy morals are praiseworthy morals wherever one happens to be, so why did the Messenger of God (pbuh) declare that the practice of such virtue at home with one's wife merits God's favor more than it does away from home with friends and with people in general? And at long last, I discerned the wisdom in this distinction: The wisdom here, in short, lies in the fact that a man may pursue virtuous behavior when relating to people outside his home for a variety of motives, one of the most obvious of which is the hope of achieving certain worldly interests, including that of establishing a reputation for himself as being someone who is honest, cheerful, kind and considerate. By means of such a reputation, he can pave the way for the realization of a variety of ambitions. As for pleasing God, however, it comes in low on his list of priorities. When a man is at home, on the other hand, alone with his wife, the ambitions which moved him to be a pleasant conversationalist and to be courteous in his treatment of others all but vanish, and the only motive he might have to go on being attentive, good-natured and virtuous is the desire to please God. Consequently, a man's kind treatment of his wife and family at home can be viewed as a precise measure of his integrity and lack of hypocrisy. After all, there's nothing to be gained from a pretense of virtue once one is behind closed doors, so to speak, except in very rare cases.

As for slipping into errant behavior and committing acts which are forbidden by the teachings of Islam, whatever they happen to be, the law of Islam holds that the guilt borne by the woman for the sins she commits is neither more nor less than that borne by the man. In other words, when a woman commits a given sin, it is no more weighty in God's balance, as it were, than the same sin committed by a man. When the Messenger of God (pbuh) said, "All human beings are sinners, and the best of all sinners are the repentant," he was not speaking of men only and excluding women. Hence, just as men's sins are atoned for by sincere repentance, so also are women's.

A man who robs his wife, daughter or sister of the opportunity to repent by killing her implicates himself in an evil which is far greater than her crime, and in accordance with the teachings of Islam, he deserves to be killed himself in retribution for her death. I am utterly astounded that there are families who, if they are told that one of their female members has committed some sort of sexual immorality, can find no way to deal with her aberrance but for the parents, or perhaps just the father, to slip deadly poison into her food. Unsuspecting, she eats the food, then begins screaming and writhing in pain and finally breathes her last before their very eyes. As for her brother, who may well have committed a series of similar or worse transgressions with their knowledge, no sooner has he come to them with the joyous news of his repentance than they shower him with affection and attention; not only so, but the "grand prize" which he wins as a result of his contrition is that they marry him to some lovely, chaste young woman fit for a husband with his angelic nature and lofty morals!

Some day God Almighty will ask this father and others like him, "Why is it that the girl who desired to be reconciled with God was deemed unworthy of repentance, whereas her brother was afforded this right with no questions asked?" By what authority have such fathers mocked the words of the divine revelation, "Do they not know that it is Allāh who accepts repentance from His servants...." [Al-Tawbah (Repentance) 9: 104] by causing them to apply to young men but not to young women?

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Those who talk about the woman's rights and who are zealous -- or at least put on a show of being zealous -- to defend her dignity will have good reason to be distressed by disastrous pre-Islamic holdovers such as these, and they have the right -- indeed, the duty -- to oppose them with all the resources at their disposal. However, they have no right whatsoever to hold Islam responsible for these groundless customs or to draw spurious, contrived links between them; rather, they are duty bound to wage war on such practices lest they besmirch Islam in any way.

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Inheritance and the dowry

One of the pre-Islamic customs which Islam warns against, and which is common in many villages and in some urban families -- including, alas, some families in Damascus itself -- is the practice of withholding the right to inherit from the girl or woman. In the view of people who engage in this practice, the woman does not stand to benefit from anything she might inherit; rather, the person who stands to benefit is "the stranger on the horizon", as it were, that is, her husband to be. Besides, they say, her financial needs are all fully met both while she is under her father's care and after she marries.

Now, ignorance might serve as a partial excuse for a transgression of this seriousness in outlying villages where there is an urgent need for greater knowledge of Islam and its teachings; however, the prevalence of this same practice in some urban areas and in some households and families which have been thoroughly exposed to Islamic culture and teachings can only be viewed as a reprehensible phenomenon and a dangerous descent into tampering with God's religion and its precepts for the sake of a tempting morsel of material gain.

Those who concoct their own interpretations of God's laws and principles need to realize that the woman's right to inherit has nothing to do with need; if it did, the Lawgiver would have denied this right to those who live in the lap of luxury and who own so much that they could not possibly be in need of even a tenth of their assets. The fact of the matter is that those who prevent their female relatives from enjoying their inheritance rights are themselves among those who enjoy the sort of opulence I have just described and who derive pleasure from acquiring millions upon millions. Yet despite their extravagant wealth, they manage to convince themselves that the only justification for bequeathing wealth to a woman is her need, whereas a sufficient basis for bequeathing wealth to a man is simply his own wish to inherit.

In fact, however, the wisdom in allowing the woman to inherit is so patently obvious that there is no need to go into any hairsplitting, pedantic discussion of the matter. This wisdom, quite simply, is that the woman has the right to a portion of the wealth of the deceased's bequest just as the man does, and never in the history of Islam has femaleness been a factor which would disqualify anyone from enjoyment of this right. One of the commonalities between men and woman is that they both have an instinctual desire to own things. Moreover, given the fact that Islam is "the religion of pristine human nature" in the sense that its precepts are tailor-made to fit human beings' natural, inborn needs and desires, it is only reasonable to expect that Islam would satisfy this natural desire on the part of both males and females without regard for whether they are needy or not.

Some people pontificate on this point, saying: What is the value of a girl and what she owns in comparison with the value of pleasing her parents? Both parents have rights over their children which count for more than all the treasures in the world; hence, what is the importance of the portion of the inheritance a woman or girl loses if, in return for this loss, she gains her parents' approval? Didn't the Messenger of God (pbuh) tell the young man who came to him with a complaint against his father, "Go, for you and your money belong to your father"?

In reply, I say: If this reasoning were valid, it would require that we do away with inheritances for both sons and daughters alike since, with regard to the importance of pleasing one's parents and treating them with kindness and generosity, there is no difference whatsoever between males and females. Rather, what we are speaking of here is a corrupt practice, namely, that of seeking to deprive females of their right to inherit. The right which God has given the sister when her brother dies may not rightfully be taken from her by anyone, whoever he or she happens to be; thus, if it is taken from her, it is not due to her having freely relinquished her right of ownership, but rather, because someone has dispossessed her of the wealth which God has decreed should go to her and to no one else. Someone who prevents a woman from receiving her rightful inheritance is, whether he admits it or not, trying to prevent the divine Lawgiver Himself from delivering this monetary right to the person to whom it is due. This is a right which no father has over his son, which no mother has over her daughter, and which no husband has over his wife. In fact, it is a right which no one, no matter how high his station may be in human terms, has over anyone to whom God has granted something through His law.

As for justifying the expropriation of a woman's or girl's inheritance rights by appealing to the prophetic saying, "Go, for you and your money belong to your father," it should be noted that al-Ṭabarānī records this saying in his **book Al-Mu'jam al-Awsaṭ** with a weak chain of transmission; al-Bazzār records it on the authority of Hishām Ibn 'Urwah with an incomplete chain of transmission,[1] and Ibn Mājah relates it on the authority of 'Amr Ibn Shu'ayb on the authority of his father and his grandfather. A large number of ḥadīth[2] scholars have declared anything narrated on the authority of 'Amr Ibn Shu'ayb on the authority of his father and his grandfather to be weak. For example, Ibn Ma'īn is quoted by al-Sājī as saying, "'Amr Ibn Shu'ayb by himself is a reliable narrator. However, what he passed down on the authority of his father and his grandfather neither serves as reliable evidence in argumentation nor has a complete chain of transmission; it is weak insofar as it has been incompletely transmitted." When Abū Dāwūd was asked, "Can traditions passed down by ‘Amr Ibn Shu‘ayb on the authority of his father and his grandfather be used as reliable evidence?" he replied, "No. In fact, they wouldn't count as being even half-way reliable."[1]

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[1] An incompletely transmitted tradition (Arabic, *mursal*) is one for which either the entire chain of transmission, or the last part thereof, is missing, and which is attributed to the Prophet (pbuh) [t.n.]

[2] Ḥadīth is the Arabic word for a traditional account passed down of something which was said, done or agreed upon by the Prophet (pbuh); it is referred to elsewhere as a "prophetic tradition." Ḥadīth scholars study and compile such traditions, and have a thorough knowledge of the criteria by which the validity and reliability of such traditions are determined [t.n.].

Hence, this prophetic saying does not serve as reliable evidence in favor of the unacceptable practice which is the subject of our discussion here, namely, tampering with the divinely inspired rulings of Islam on inheritance and attempting to prevent God-given rights of inheritance from reaching those to whom they are due. As for the content of the saying itself, it has to do with a father who makes use of his son's money in order to meet his legitimate needs, whatever they might be.

The men who take possession of their female relatives' rightful shares of an inheritance are themselves the ones who are most likely to do the same with such women's dowries, while the majority of those who carry out this type of monetary assault on women are fathers! In households where this practice is followed, it generally takes place in one of two ways: The first way is for the father, the brother, the paternal uncle, etc. simply to take the woman's dowry in silence, without any attempt at dialogue or request for permission. Moreover, given the fact that the girl or woman concerned will be too shy to remind others of her right, much less demand it, she is simply dispossessed of what was rightfully hers without a word being spoken by either side.

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[1] See Ibn Ḥajar al-‘Asqalānī, Tahdhīb al-Tahdhīb, 8/53, and al-Dhahabī, Mīzān al-I‘tidāl fī Naqd al-Rijāl, 3/264.

As for the second way, which is more common in some villages, it is for the girl's or woman's legal guardian, which would be either the father or some other male acting as his proxy, to ask her -- with cajoling or threats -- to turn her dowry over to him. As for her, she has no choice but to comply, of course, in the face of this pressure and, as a consequence, the guardian comes into full possession of her dowry, having satisfied himself that he only took it by legitimate means!

There is no doubt, however, that those who commandeer a girl's dowry in either of these two ways are light years away from the Book of God, and have no regard for its principles and precepts. Try as I might, I fail to see what value there is in such a man's going on the pilgrimage to the Sacred Mosque in Mecca and rushing from one mosque to the next to perform communal prayers in the front row, all the while deliberately, knowingly turning a deaf ear to God's words, "And give the women [upon marriage] their [bridal] gifts graciously. But if they give up willingly to you anything of it, then take it in satisfaction and ease " [Al-Nisā' (Women) 4: 4]. Note the precautionary manner in which the divine revelation states this command. It does not say, "If they give you their dowry, take it," but rather, "If they give up *willingly* to you anything of it, then take it." And where is the girl or woman who, though her lips voice consent, is genuinely content when her father or some other male relative shames or threatens her into foregoing the right to her dowry?

However much the guardians of such an unfortunate woman or girl may try to justify their greed -- by saying, for example, that the dowry would have ended up being taken by her future husband and that, consequently, her father, her brother or her paternal uncle has more right to it -- this purported justification is in reality nothing but a veiled form of defiance against God's Law and rule. It is as if they wanted to claim that God -- unlike them! -- didn't know that the woman's future husband would scheme to take her dowry away from her and that, if God had realized this fact, He would have allowed them to do what they are doing, saying, "Take it in satisfaction and ease"! The divine Lawgiver who has commanded the husband to give his bride her dowry as a gracious gift, that is, without any strings attached, has forbidden him to take anything of it for himself just as He has forbidden the woman's other male relatives. Both the woman's husband and her other male relatives are thus accountable for obeying God's command in this regard, and if any one of them is implicated in doing otherwise, he becomes liable for punishment, both in requital for his offense and as a deterrent example to others. What, then, is the meaning of legal guardians' violation of this right based on this fabricated justification, if not a frantic competition on the part of the woman's male relatives and her husband -- if, in fact, her husband is party to this type of thing -- to violate God's commands and subject themselves to God's displeasure?

* * *

In conclusion, let me assert that as much as I condemn this heinous, contemptible brand of theft, it is also true that -- fortunately -- this practice is rare and appears to be on the wane. In urban areas it tends to be observable primarily in poor families, where the father is tempted by material need to covet what comes to his daughter by way of her dowry and additional gifts, as a result of which he resorts to the kinds of practices we have mentioned here. As for the custom which prevails in most other families, it is for the young woman's father to contribute some of his own money to his daughter's dowry and to the gifts that have come with it.

Be that as it may, I thought it best not to overlook such aberrant practices, rare as they may be, lest someone say that I like to boast of theoretical ideals and ignore the reality that flies in the face of such ideals. The reality experienced in the West is immersed in corruption and injustice which impact women's lives from all directions, while the just and potentially beneficial resolutions and laws in the West hold sway over no more than 20% of society. As for the reality of social life in the [Muslim] East, it is, for the most part, regulated by the teachings and guidance provided by Islamic law, while customs which deviate from these teachings tend not to affect more than 20% of society. This statement applies, of course, to households which are living by the teachings of Islam; as for households which are dominated by the West and its ways, they should, statistically and comparatively speaking, be counted as belonging to Western societies, in which case there is no point in including them as part of societies which are subject to Islam's teachings and jurisdiction.

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Polygamy in chaos

We have explained the Islamic ruling on polygamy and the controls associated with it, as well as the wisdom in its legitimacy and the demanding conditions which God Almighty has stipulated for those who wish to engage in this practice, all of which should provide sufficient information for those who wish to make an objective study of polygamy as it relates to society as a whole. However, I realize that a great deal of uncertainty and ambivalence arises in people's minds and hearts when they look at the reality into which Islam's clear, sound teachings on polygamy are sometimes translated. For in fact, polygamy as it is being put into practice in Islamic societies is not a clear reflection of the truth which we have set forth thus far.

I do not mean to say that all applications of this ruling are to be viewed as violations of the teachings of Islamic law; rather, what I am saying is that there are many applications which do not adhere to the conditions which have been set down by the divine Lawgiver and which, as a consequence, have the potential of arousing a sense of aversion to the very idea of polygamy. The reason for this is that the aberrations which are interspersed among the many instances of sound, rightly guided behavior tend to distort people's perceptions even of those instances of polygamy which are beyond reproach. The sound, correct practice of any given custom or principle tends not to attract any attention since it is consistent with the prevailing trend; as such, it is like a musical instrument which is being played in harmony with other instruments in an orchestra. As for instances of the same principle or custom being applied in an anomalous or irregular fashion, they tend to attract attention since they constitute a type of dissonance, which of necessity announces itself in a conspicuous way.

Ten cases of polygamy which are in shameful violation of the rulings of Islamic law in a city such as Damascus could set up negative repercussions all over the metropolis; not only so, but the rumors which they cause to spread could have ill effects on the many cases of polygamy which are perfectly honorable and non-problematic. This, in fact, holds true for the distorted application or expression of any sort of principle or custom.

Thus, confused applications of the custom of polygamy may be found in Islamic societies. However, they do not necessarily make up the majority of cases although the percentages differ from one country to another. There are husbands who take another wife out of desire rather than necessity. Thus, given the fact that their motive for taking another wife was the pursuit of enjoyment, they are likely to chafe at the stipulations and burdens which the divine

Lawgiver has imposed on them in this regard; after all, there is a plain inconsistency between taking another wife simply on the basis of a craving for pleasure on one hand, and the willingness to abide by the stringent conditions associated with the sound practice of polygamy on the other. Consequently, such husbands experience difficulty in observing the principle of equitable treatment of more than one wife, they grumble over having to divide their time equally between their wives, and they do not treat them equally with respect to material support and generosity.

However, this difficulty is not due to the fact that such conditions are impossible to fulfill; rather, it arises from the fact that such men were motivated to enter into polygamy not by necessity, but by a lust which they wanted to satisfy. Someone who acts on the basis of the desire for a pleasure which he wants more and more of is likely to flee from restrictions and commitments; as for someone who experiences a sense of genuine, urgent necessity, he will find no difficulty in committing himself to any of these conditions in return for being released from the sense of need under which he had been laboring. This is not to say that I understand the Islamic legal provision for polygamy to apply only to those who feel they have no legitimate choice but to take another wife; on the contrary, it is a general provision which includes every husband who desires to take more than one wife. However, the exacting constraints and commitments to which the divine Lawgiver has tied polygamy require that this provision only be made use of by those who find it to be a genuine necessity.

When I speak of "necessity" here, I am referring to the necessity felt by those who believe in God, who fear His displeasure, and who are committed to obeying His commands and precepts. As for those who put no store by God's commands and precepts, they might practice polygamy without adhering to its divinely legislated restrictions and conditions. Moreover, they convince themselves that the choice they have made is preferable to the sexual morality into which they might have fallen otherwise, since they have only satisfied their passions by means of a proper, legal marriage. Now, I am not saying here that a man's entering into polygamy without adhering to its proper restrictions and conditions is tantamount to his committing adultery; rather, the marriage he has contracted is, in fact, valid, legal matrimony so long as the fundamental components and conditions of marriage are present.

However, the fact that such a man has not committed adultery does not mean that he has not fallen into some other kind -- or kinds -- of disobedience; in fact, he may have embroiled himself in numerous other transgressions. After all, disobedience can take many forms and it can have many different causes. A man who abandons his first wife in order to enjoy the second has committed an injustice of such gravity that only God Almighty knows the seriousness of the punishment he will face as a consequence; in fact, the penalty that awaits such a husband may well be more fearful than what he would have merited by committing the sexual immorality which he claims to have been fleeing from. Moreover, the husband who showers one of his wives with sources of enjoyment and satisfaction while giving the other only sparingly, or who shows one of his wives his intimate, cheerful, talkative side while subjecting the other to frowns, harsh words and rude treatment, has mired himself in a type of waywardness whose gravity is known only to God alone.

There are men who say: I gave one of my wives a choice between divorce and being content with the way I was treating her, and she chose to be content. Consequently, she's waived whatever rights she might have had, and when I treat her the way I do, I can't be said to be hurtful or unfair toward her! To those husbands who have come up with this disingenuous innovation, I say: Why didn't you mention this choice to your ill-fated spouse when you were drawing up your marriage contract? If you'd given your wife-to-be a choice between: (1) your marrying her without having to adhere in the future to standards of fairness in your treatment of her, in which case she would not be in a position to demand her rights in this regard and (2) your not marrying her at all, and if she had chosen the first option, then it would have been a valid concession on her part and you could consider yourself free of any responsibility to respect her rights.

However, if a man lures a woman into a marriage agreement in which there is no indication that such a situation might arise, and if, after the woman has settled into their life together and grown attached to him, he suddenly presents her with the "choice" between two options both of which are a bitter pill to swallow, then exploits the necessity of her fleeing from the more bitter of the two options in order to oblige her to accept the less bitter one -- an option which, in any event, can't possibly be truly acceptable to her -- he is engaged in a blatant deception of which God's law and religion are innocent. Someone who behaves in this manner with one of his wives is not giving her a choice as to whether to forgo her rights or not; rather, he is forcing her into this relinquishment in the same way that a father might force his daughter to give up her dowry to him by threatening her with the dire consequences of not doing so! There is, in fact, a valid, legal type of waiver, namely, one which the wife offers gladly and of her own accord without any feeling on her part that she has been forced into this choice; further details on this type of waiver may be found in authorized source works on Islamic jurisprudence.

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In sum, the chaos which can be observed in Arab and Islamic societies with respect to the question of polygamy is not the fault of Islam itself but rather, of the Islamic judiciary. It is the duty of judiciary authorities not to approve a second marriage for someone who is still married to his first wife until it has established with certainty that the husband is able to bear the financial responsibility of a second marriage. In addition, the husband should be required to sign a written commitment to the effect that he will adhere to the conditions and rules of conduct which God has decreed for those who take more than one wife. Then, if he fails to live up to this commitment, he should be subject to a strict penalty in which there is no room for leniency of any kind.

Oddly enough, the personal status law [in Syria] is stringent at a point where there is no need for such stringency, nor is there anything to be gained from it, namely, the stipulation that the husband must have a genuine need to take a second wife. After all, this stipulation is unenforceable, since the need to take a second wife might not be a visible, material need but rather, a subjective need perceived only by the husband. Just as the divine Lawgiver recognizes concrete factors contributing to the need for a second wife such as illness, infertility, etc., He also recognizes subjective factors which, if the husband failed to respond to them by taking a second wife, might make him vulnerable to committing sexual immorality. It is beyond the ken of the judiciary to verify the legitimacy of such causes or to experience them in the way that they are experienced by the person facing the problem. In fact, even in the case of visible, concrete causes, the interests of the individuals concerned often require that these causes be kept confidential, while their open disclosure might be a source of harm to the wife, the husband, or both spouses.

The severity contained in certain articles of the personal status law has become a mere formality which, on the practical level, cannot be enforced. Therefore, rather than focusing on the stipulation that the husband should have a genuine need for a second wife, it would be more effective to focus on the conditions which the husband must adhere to in the practice of polygamy and the necessity of which is unanimously agreed upon. If the judiciary placed special emphasis on these conditions -- by employing all possible means to follow up on cases of polygamy and by prosecuting husbands who have been negligent in living up to these conditions with penalties and exemplary punishments -- it would achieve the same purpose for which it stipulates that the husband must be in a situation which makes it necessary for him to take another wife. In other words, if men saw the seriousness with which husbands were being prosecuted and punished for laxness in adhering to the conditions associated with polygamy, they would be more likely to think before acting, examining themselves to see whether they do, in fact, need to trouble themselves with another wife. Having thought the matter through, they could then either go ahead with the idea, trusting in God to meet their need in this way and to enable them to live up to its conditions; or they could go back on their decision to take another wife, realizing that there is no real need for them to embark on an adventure which might subject them to prosecution and penalties.

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Here also we say: Those who are zealous to defend women's rights and dignity are right to denounce the chaotic manner in which polygamy is practiced here and there, and we join with them both in their denunciation of this phenomenon and in their passionate stance in favor of women's rights and dignity. However, they have no right to blame Islam for this confusion and the illegitimate, irresponsible adventure which polygamy has come to represent in some places. Rather, they should wage war on this phenomenon out of a zeal for Islam lest it be harmed by its negative repercussions. We join such critics in voicing the most vehement condemnation of such abuses of polygamy in Islam; at the same time, we urge them to join with us in preventing Islam from being held responsible for this chaotic state of affairs and its injurious consequences.

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Partiality in the giving of gifts

We now come to yet another practice which is prevalent in many households and circles. At the insistence of his children or perhaps based on his own wishes, the father may give some of his real estate holdings or other assets to some of his children as a gift, transferring their ownership to them while he is still alive. What generally happens is that the father's male children receive such a gift to the exclusion of the females. This practice is justified based on the view that the male children face, or will face, numerous financial burdens, the most important of which are marriage and setting up a household, whereas in the case of the females, their needs are, or will be, provided for by their husbands. The money which a son earns, he spends on himself, whereas that which is given to a daughter is most likely to go to a stranger, namely, her husband. This understanding of things is derived from the view which one Arab poet expressed in the words:

Our sons' sons belong to us, but our daughters' sons belong to men who are distant strangers.

What is the ruling of Islamic law on this practice and on the point of view which supports it? Al-Nu'mān Ibn Bashīr once related that his father said, "I came once to the Messenger of God (pbuh) and said to him, 'I have given this son of mine a servant boy that used to belong to me.' The Messenger of God (pbuh) replied, 'Have you given all of your children the same type of gift?' 'No, I haven't,' I replied. 'Take it back, then,' the Messenger of God (pbuh) said."[1] According to another version of the same tradition, al-Nu'mān Ibn Bashīr once stated from the pulpit, "My father once gave me a gift. But my mother, 'Amrah Bint Rawāḥah, said, 'I won't agree to it until you have gotten approval from the Messenger of God (pbuh).' So he went to the Messenger of God (pbuh) and said to him, 'I gave a gift to my son by 'Amrah Bint Rawāḥah, but she has told me to get your approval, O Messenger of God.' In reply, the Prophet (pbuh) asked him, 'Have you given the same type of gift to your other children?' 'No,' al-Nu'mān replied. The Prophet (pbuh) then told him, 'Fear God, then, and treat your children equitably.' So he returned home and took back the gift he had given me."[1] According to a variant version of the same account recorded by Muslim, the Messenger of God (pbuh) told al-Nu'mān's father at the end of their conversation, "Do not ask for my approval, then, for I cannot vouch for an injustice."

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[1] This is an agreed-upon ḥadīth as narrated by Muslim and al-Bukhārī.

According to most scholars of Islamic jurisprudence, this tradition indicates that a father is forbidden to give gifts to some of his children and not to others, while some hold that this practice is simply undesirable. However, if we take this tradition at face value, it indicates that such differential treatment of one's children is totally prohibited, since the Messenger of God (pbuh) described it as "an injustice", which is unanimously agreed upon to be proscribed in Islam. Moreover, if the motivation behind this differential treatment is to show preference for males over females, it is all the more fitting that it should be disallowed.

In point of fact, there is a custom in some families today for gifts to be given to male children in preference over females. This is among the most serious violations of Islamic law, since it promotes a truly inferior view of the woman as woman. Moreover, given the fact that this is a custom for which Islamic circles are known, it follows that people with little knowledge of the religion -- and there are many such people, especially foreigners who are interested in learning about Islamic ways and practices -- will attribute it to Islam and consider it to be, if not a direct teaching of the religion, at least something which Islamic law permits and does not condemn.

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[1] Also an agreed-upon ḥadith.

The argument in favor of this perverse custom which is appealed to repeatedly by those who engage in it has no basis in Islamic law, logic or common sense; it is based, rather, on fallacious thinking and faulty perceptions. When a young woman marries, her husband has no right under Islamic law to take a single cent of her money without her freely given consent; this is true no matter how wealthy she happens to be or how poor he happens to be. Consequently, the notion that what a daughter receives from her father will, as a matter of course, eventually end up belonging to her husband is a false assumption, not to mention the fact that it implies an unduly low opinion of the woman's future husband who, as yet, is an unknown entity. If a wife should give some or all of her money to her husband because she herself wishes to do so, that is her business; however, this in no way serves as a justification for treating her unjustly or for her father's depriving her of the kindness and generosity with which he treats her male siblings.

If a father is concerned that his daughter might marry someone who is greedy for her wealth, the way to deal with this concern is certainly not to deprive her of equality with her brothers in terms of what he gives his children materially. Rather, the way to solve this problem is for the father to check out the morals of the suitors who come asking for his daughter's hand and to actively search for the faithful, upright husband whom he can be certain would never violate any of her material or spiritual rights. Moreover, even if the father's fear is reinforced by the fact that there are not many eligible men who have such moral integrity, this still does not justify any type of unfairly differential treatment of sons and daughters with respect to the esteem and generosity which is shown to them.

Reflect with me now on the frightening, ironic contrast between the honor which the Messenger of God (pbuh) has commanded us to grant our daughters in particular, and the disregard demonstrated by such people for daughters' rights in particular!

The Messenger of God (pbuh) declared, "Whoever supports two girls until they reach maturity will stand together with me on the Day of Resurrection." And as he spoke, he held his fingers together in illustration.[1]

He (pbuh) said, "There is no Muslim who has two daughters to whom he provides kind treatment throughout their years together but that they will cause him to enter Paradise."[2]

He (pbuh) also stated, "If any Muslim has three daughters whom he provides for until they marry or until they die, they will protect him from the hellfire." A woman then asked him, "Or two daughters, O Messenger of God?" "Or two daughters," he replied.[1]

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[1] Narrated by Muslim and al-Tirmidhī.

[2] Narrated by Ibn Mājah with a sound chain of transmission, as well as by Ibn Ḥibbān in his Ṣaḥiḥ and by al-Ḥākim in his Al-Mustadrak.

He (pbuh) said, "If someone who has a female child does not bury her alive, or insult her, or prefer his male children over her, God will usher him into Paradise."[2]

Yet despite the Messenger of God's having given us all of these admonitions, warning us against a man's showing preference for his sons over his daughters, we still find people who claim that they believe in God and His Messenger and the Day of Judgment, yet who defy the Prophet's instructions by insisting on showing preference for their sons over their daughters! In so doing, such people demonstrate that the counsel they have been given by the Messenger of God (pbuh) is less compelling to them than that of some pre-Islamic bard who said, "Our sons' sons belong to us, but our daughters' sons belong to men who are distant strangers."

Untold resentments and disputes erupt among sons and daughters as a result of this oppressive one-sidedness, not to mention those that break out for the same reason between the head of the family and his sons-in-law, or between brothers-in-law and their wives' brothers. Hence, in the case of young men whose fathers do not abide by the Messenger of God's command to treat their daughters with kindness and liberality, and who honor their sons with gifts without doing the same for their sisters (or without even giving the latter what would be equal to the share they would have inherited out of such a gift), I call upon them to take the initiative to set aside part of what they have received from their fathers and give it to their sisters, thereby redressing this injustice and restoring equity. By thus doing their duty to heal discord, they will relieve themselves of a burden of guilt and merit a reward from their Sustainer.

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[1] Narrated by al-Ṭabarānī on the authority of 'Awf Ibn Mālik; this tradition has many other attestations as well.

[2] Narrated by Abū Dāwūd and al-Ḥākim, with al-Ḥākim noting that it has a sound chain of transmission.

The husband's demanding a share of his wife's money

The same ruling which applies to the practice just discussed --- namely, that of showing preference to sons over daughters in relation to the share they receive of their father's material wealth -- applies likewise to many husbands' practice of confiscating, by one means or another, part or all of their working wives' salaries. Those husbands who get caught up in this shameful habit argue that since their wives are employed just as they are, then the two of them are on an equal footing in terms of earning money, and that as a consequence, they should share equal responsibility for supporting their household.

The differences which arise between husbands and wives over this issue often reach such a fever's pitch that they end in separation and divorce. However, this type of conduct on the husband's part is unjustified under Islamic law since he is the one charged with the responsibility for supporting his wife and their children; moreover, this is a permanent ruling which is not changed by the wife's being wealthy or employed. We have already had occasion to discuss this ruling in earlier sections, as well as the wisdom to be found in it.

As for potential solutions to which a couple might resort in such a situation, they are as follows:

They might agree on an arrangement which is fully acceptable to both parties and which involves cooperation in providing financial support for their household, for example, by the wife's giving her husband an agreed-upon portion of her salary on a regular basis as a gift from her to him. It is even possible for the wife to become the sole breadwinner on the basis of such a mutual agreement. All such arrangements are permitted and acceptable so long as the agreement is based not on fear or hesitance to voice one's true preferences, but rather on complete, heartfelt, voluntary acceptance by both spouses.

The husband might forbid his wife to work outside the home, in which case he forgoes any basis for a demand that she share with him in providing financial support for their household, or that she relinquish part of her earnings to him. The husband has the right to forbid his wife to pursue employment outside the home as long as he is fulfilling his duty to provide her with sufficient financial support, since he may see it as more beneficial for his wife to devote herself full-time to the tasks and functions connected to their marital life, thereby making herself more fully available to him and to maximizing their happiness together. It is more acceptable by the standards of Islamic law for a husband to say to his wife, "Leave your job and devote yourself to tasks relating to our home and our marriage, since I'm committed to providing everything you need" than for him to say, "You can work if you'd like to, on the condition that you either share responsibility with me for meeting household expenses and the like, or give me a set amount of your salary every month."

The husband may allow his wife to pursue her profession as she pleases while continuing on his part to bear financial responsibility for her, their children, and their household. It should also be noted here that there are limits to a husband's financial responsibility for his wife which vary according to his means. Hence, if he provides what is necessary for her financial support, he is not obliged to supply any more than this; rather, the wife herself is responsible for covering any additional expenses, e.g., the purchase of luxury items and the like.

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However, there are proponents of certain modern notions who attempt to subject this divinely revealed ruling to a fruitless debate which, since it lacks guiding principles, is bound to have no end. What these people say is that the system governing financial support for families and the determination of which member will be responsible for providing this support is subject to the economic situation which prevails at any given time, a situation which is bound to reflect on the woman and the degree to which she shares with the man in the world of employment. Consequently, they hold, the rulings on family financial support and the designation of the family's breadwinner should evolve in accordance with the evolution of the social situation and the woman's relationship to society with respect to whether she is employed in the work force or not. Moreover, given that at the present time, women are on an equal footing with men in the practice of the various professions, it follows that Islamic rulings on the family -- the most important of which include the system governing financial support and the designation of the party responsible for providing such support -- should reflect and harmonize with this development.

However, this analysis is imprecise and highly superficial. After all, the marital relationship does not revolve around economic cooperation as these people imagine it to. Rather, it revolves first and foremost around the protection and nurture which the wife is in search of. The husband, by and large, looks to his wife for sexual companionship, whereas in the wife's case, she tends to look to her husband not only for sexual companionship but, in addition -- and perhaps even more urgently -- as someone who will protect and care for her.

Someone might ask: Protect her against whom? Guard her against what sort of need? The answer: Protect her against the unknown, and guard her by compensating for her weakness through the man's strength. Under virtually all conditions and circumstances, the woman feels that her security comes not from within her and from qualities she herself possesses but rather, from the man in which she has sought refuge. Similarly, she feels that her need for protection and care can only be fully satisfied by the man who will take her under his broad, protective wing.

You may call this weakness. However, do not forget that the woman's power and authority over the man are brought to completion through this very "weakness." As I hope my readers are aware, I am not simply fabricating notions and attributing them falsely to women, nor am I relying on this analysis without having listened to women's feelings and points of view. For example, we have cited a number of different statements by the well-known German physician and writer Esther Vilar in her book, ***The Man's Right to Take More Than One Wife***; this work, which contains a highly precise analysis of women's psychology, has enjoyed great popularity in both Europe and the United States (as have her other books), while the support expressed for the book's conclusions far outweighs whatever criticisms have been leveled against them.

What this authoritative writer affirms is, in essence, that which is expressed by the [unspoken] condition of any woman who is looking for a husband or experiencing marital life with this or that man. If this much is clear -- i.e., that which is expressed by so many women's lives -- then one can be certain that even if a woman reaches the pinnacle of wealth and wins the world championship in wrestling, track and field or karate, she will still not feel as though she has a happy, satisfying marital life unless she is with someone whom she feels would be sure to protect and care for her; and this, in turn, requires that the man exercise the authority invested in his strength. Similarly, he has the duty to take care of her financially even if she happens to be the richest person in the world.

Hence, the woman's participation with the man in various types of jobs and professions is not the basis for the marital relationship and as such, it provides no justification for changing the divine decree that the husband should always be the official breadwinner. The One who laid down this legislation in His Qur'an is also the One who planted it in the woman's nature, in relation to her husband, to desire to be cared for and protected rather than being herself the caretaker and protector.

There can be no doubt that if a woman finds herself the household's breadwinner, she must also be the one with the authority and influence in this same domain. After all, as the saying goes, "Whoever pays, supervises." If a woman does end up in this position, her new-found perceptual "looking glass" will cause her to see her husband as an overgrown adolescent who needs her protection and nurture, and she may conclude that Fate has placed her together with him in order for her to show him mercy and compassion, but not to relate to him as her man and her husband. Once this vision has taken hold, feelings of discontent, weariness and even sorrow will begin to creep in unless she is able to rid herself of the emotions which come most naturally to a wife in need of a genuine husband, and unless she can devote herself instead to acting out of purely humanitarian, spiritual motives, pouring herself out as a libation for the sake of others' happiness. However, few are those who could emulate this small minority of women who are capable of devoting themselves wholly to piety, worship and selfless service! Hence, the Qur'anic decree, "Upon the father is their [i.e., the mothers'] provision and their clothing according to what is reasonable" [Al-Baqarah (The Cow) 2: 233] is not dependent on an advanced economic status but rather, reflects an enduring aspect of human nature itself.

* * *

Conclusion

A Brief Reflection on the "Creational" and "Legislative" Orders

An objective reading of what we have presented here concerning the reality experienced by women in Western societies on one hand, and women's situations under Islamic systems on the other, is capable of yielding a solid conviction that the Islamic law has always been, and continues to be, the most hospitable to the woman, as well as the most protective of her rights, her dignity and her uniqueness as a female.

I believe it has become clear that the woman who lives within the current of Western societies and civilizations is headed inexorably toward a devastating tragedy, and that the excitement of nights spent "on the town", whether by the soft lighting of a quiet corner or the bright lights of a theater stage or a disco, increasing income, and the opening of more and more doors into the worlds of pleasure and enjoyment -- however alluring these enticements happen to be -- will mean nothing but an accelerating descent into a state of melancholy in which, whether she realizes it or not, she will lose both the source of inward contentment and the criterion by which to determine what constitutes genuine pleasure and enjoyment.

It has become a matter of common knowledge that the frantic race by both men and women to obtain more enjoyment by amassing more wealth is not the only, or even the shortest, path toward happiness, which arises not from outward circumstances, but from within the heart. One of the most powerful testimonies to this fact is the rising numbers of men and women who commit suicide year after year in the United States of America, with women representing the largest percentage of such cases.

It is my hope that you have understood and found convincing the greater part of our explanation of God's law as revealed through Islam. As for what you have either not understood or found to be unconvincing, there is a clear, well-lit path which, if you pursue it to its end, will enable you to concede that it is, indeed, the truth which admits of no doubt and the wellspring of true justice. Stepping onto this path requires that you come bearing a "passport" which you hold, not with the force of your personal strength, but with your heart. This "passport" is simply the willingness to trust that the One who legislated the precepts which we have presented here is none other than God Almighty. If you can muster this confidence with honesty and certainty, you can easily travel this path to its end.

Based on my confidence that you believe in God Almighty and trust that He is the guardian and revealer of this law, I offer the following brief explanation of the steps involved in this journey: This world in which we live may be said to consist of two orders. The first of these, which we refer to here as the "creational" order, is founded upon creation in two different but related senses: (1) the sense of bringing into existence, shaping and molding (Arabic, *khalq*) and (2) the sense of originality, creativity and the achievement of unique, outstanding results (Arabic, ibdā‘). As for the second order, which I refer to as the "legislative" order, it is founded upon command and guidance. It is these two orders which are spoken of in the Qur'anic phrase, "Unquestionably, His is the creation and the command" [Al-A‘rāf (The Heights) 7: 54].

The creational order includes the coordinational relationships which we observe between human beings and the world in which they live. For example, we have the division of time -- a fundamental dimension of life for human beings -- into units such as years, months, nights and days. We observe how days are longer than nights during the summer given the need for more sunlight at this time to ripen fruits and other products of the earth, while in the winter, nights grow longer by comparison with days given the need for the rain and snow which tend to fall most copiously at night. We observe the earth, whose surface God has made a resting place, and whose inner core He has made to be a storehouse of treasures, causing it to burst forth with an endless variety of fruits, vegetables and other sources of nourishment, as well as multitudinous herbs and grasses which contain healing medicines for all types of ailments and diseases. Not only so, but God has established specific times for these fruits and other foodstuffs in accordance with the symmetry and balance which is needed among the four seasons of the year. Have you not noticed how, at the right times, the earth gives you those foods which are best suited to the summer's scorching heat, the winter's bitter cold, as well as the more moderate temperatures of the fall and spring?

In addition, we have the winds which move and impregnate the clouds, the oxygen which God has made to be one of the basic conditions of life, depositing it in what we refer to as the atmosphere which envelops the earth, as well as the carbon dioxide which we exhale and which, if it filled the air, would become a poisonous gas from which we could die of asphyxiation; however, rather than allowing this to happen, God causes the carbon dioxide to pass again through the "factory" of plants and herbs which cover the face of the earth and which, after breathing in the carbon dioxide, exhale still more refreshing oxygen.

Consider the human body and its vital, precise functions; in fact, it is sufficient wonder just to think of the functions performed by one individual part and the way in which this serves us and fulfills the conditions for a wholesome, healthy life free from illness and pain. Think of the foods we consume and the nutrients dispersed throughout them which harmonize precisely with the body's various needs.

Think of the bond of calm reliance which God has placed between husbands and wives and the mutual affection, attachment and longing for one another which is experienced by parents and their children. And lastly, think of the predictable respite which He has decreed between each evening and the following morning for the spirit and its activities through the drowsiness and slumber that come whence we know not, thereby relieving us of the pressure on our minds and nerves and renewing their efficacy, impulses and functions. These are only a few of the countless wonders whose explanation would be lengthy and which it would take a lifetime to recount.

Have you given consideration to this order? It is the creational order which is based on direct divine creation and artistry. Do you not see that both taken as a whole and in its minutest details, it is a manifestation of God's kindness, mercy, bounty and magnanimity toward our human species, around whose interests the entire cosmic system revolves? Have you not noticed, based on what we know about this same cosmic order, how pampered we are by God?

I believe that what I am saying would meet with the agreement of any discerning person, since the realities I am speaking of are visible, scientific facts which are not subject to doubt or debate. Thus, I ask: Do you not see this marvelous divine grace toward us which is revealed through God's creational order as evidence that His legislative order has been brought into existence for the same purpose? In other words, the relationship between the legislative order which was established at God's command and the creational order which emerged as a fruit of God's creative power and workmanship is like the relationship between a container and its lid, or between a house and its furnishings.

Who is it that can behold God's compassion and wisdom in what He has brought into existence in such graceful symmetry, then doubt this same compassion and wisdom with respect to what He has commanded? What is it that makes a young child certain that his father has his best interests at heart in the rules he lays down for him even when such rules appear to be harsh? In situations such as this, the child relies on the same proof of which we have spoken here. In other words, a child sees his parents' compassion and love for him through the ease and provision which they provide for him, the protective environment in which they bring him up, and the home where he experiences safety, companionship and intimate familiarity. How, then, can he fail to see this compassion and love in the advice, admonitions and commands which he receives from them? In order to recognize that his father and mother have his best interests at heart and are full of compassion toward him in the admonitions and orders they give him, the child does not need to argue with them about everything they encourage or command him to do so as to determine where his own interests lie in such matters. Rather, he is spared the need for such an approach by the conclusive proof revealed in their constant, vigilant concern for him and their tireless efforts to provide for his happiness and protect him from danger.

I myself am astounded that there are people who can see such caring nurture multiplied many times over in the form of the divine grace and provision which they receive through the creational order that God has established in their service and yet, despite this fact, they fail to perceive even with their mature powers of reasoning what a child perceives with his tender young mind with regard to his parents; namely, that the One who set in motion His creational order to serve human beings and to demonstrate His grace toward them is bound to have established His legislative order, including all of its commands and admonitions, to serve them even more fully and to demonstrate even more of His mercy toward them.

How could any reasonable person imagine that the divine Being who has provided happiness for human beings through His cosmic order would then turn around and cause them misery through his legislative order? The denial of the Divine altogether, as contrary as it is to sound reason, is still easier to comprehend than this senseless contradiction. Indeed, it is nothing less than ludicrous for us to sit at God's table, as it were, which is laden with expressions of His grace and mercy, only then to suspect our Host of ill-will for issuing rules of etiquette and other instructions which He expects us to adhere to as we partake of the food and familiarize ourselves with its various types and unique qualities.

* * *

Hence, I say once again to the sister or the brother who has done a thorough, reflective reading of what I have written here: If there are divine rulings relating to the woman and her affairs which you have found convincing and the wisdom in which you have been able to perceive, this is good news to me since this, of course, is what I have hoped and striven for. As for those points which remain unconvincing to you or which you feel uneasy with given that you fail to see the wisdom behind them, it may help you to reflect on the point we have just been focusing on, namely, that the creational order in whose oceans you swim, so to speak, is an inexhaustible wellspring of divine grace, wisdom and mercy. By dwelling on this insight you may be better able to arrive at the assurance that, in fact, such rulings contain the profoundest wisdom and serve human interests in the most ideal possible way.

The scientific proof which plants assurance in your heart based on the insight we have mentioned is, in fact, more powerful than the detailed argument which you are looking for and by which you expect to reach mental certainty. In the creational order where God has placed you, He has shown you nothing but the greatest compassion and consideration. Does this not assure your heart of the divine compassion which is being shown to you when God exhorts you to do something which you fail to see the wisdom in and whose benefits are not yet clear to you? Is it not a serious error of mental judgment to accuse God Almighty of being arbitrary or unjust rather than accusing yourself of ignorance and inaccurate perception? Such questions are all the more pertinent given that all of the divine bounty and mercy bespoken by the universe in which you live gives you reason to think well of Him, whereas the pervasive areas of ignorance in your own life and thinking should lead you to accuse yourself instead and to think twice before accusing your Lord.

Even so, our tendency is to doubt the divine mercy and wisdom when it comes to Islamic law despite the fact that our Lord, who has shown us His great bounty and mercy through His creational order, has [also] assured us that His legislative order is simply a completion of His creational order in the extension of His mercy and compassion. Has He not said, "O you who have believed, respond to Allāh and the Messenger when he calls you to that which gives you life" [Al-Anfāl (Spoils of War) 8: 24]? And has He not said, "O People of the Scripture, there has come to you our Messenger, making clear to you much of what you used to conceal of the Scripture and overlooking much. There has come to you from Allāh a light and a clear Book [i.e., the Qur'ān] by which Allāh guides those who pursue His pleasure to the ways of peace and brings them out of darkness into the light by His permission, and guides them to a straight path" [Al-Mā'idah (The Repast) 5: 15-16]?

* * *

As for those who do not believe in the existence of the Creator ...

As for those who live in a kind of "merger" with this order without believing in the existence of a Being who creates and sustains it ...

As for those who swim in a sea of grace and benevolence which preserves their life and well-being, yet without perceiving the existence of the Graceful, Benevolent Wise One ...

As for people such as these, there is no way for me to establish a dialogue with them; rather, they live with their dreams and conceptions in a world apart from the one I live in. They may be with me in their wandering glances and their physical presence, but their subjective state makes it impossible for them to perceive things in the way I do. Rather, they remain in a heavy slumber and, as a result, it is still too early to open a meaningful dialogue with them. The opening that has to be made is an initiative to waken such individuals out of their intellectual stupor; without such a step, it is futile to speak with them about God's laws and precepts, and it is their perfect right not to understand a word I say.

Nevertheless, there are some deniers of the Creator's existence who have developed their method of denial to the point where they are masters at actively pursuing their ideas and convictions. The innovators and developers who deny God's existence have abandoned their old tactic of debating with believers and discrediting those who trust in the existence of the divine Creator, Disposer, Ruler and Legislator. Instead, they vie with the believers in speaking of the evidence for God's existence, His evident compassion and the greatness of His laws; at the same time, however, they lament the fact that Muslims today are failing to renew their Islam and develop its masterful laws and rulings. The Muslims' tragedy -- they say -- is that they are not as keen as they themselves are to nurture and protect their religion by means of development and modification so that it might keep pace with other contemporary civilizations and cultures.

If you ask them how the religion is to be developed and modified for the purpose of protecting and preserving it, they will tell you, “By means of independent reasoning.” If you ask them about the nature of the independent reasoning of which they speak, they will tell you that it consists in the process of interpretation. Thus, every Qur’anic text which is unacceptable in light of modern cultural convictions can easily be brought into harmony with such convictions by emptying it of its meaning and replacing the original meaning with another. If you fail to see how this can be accomplished, just remember: Interpretation. Remember that anything can be accomplished through interpretation!

For example, the meanings and rulings derived from Qur’anic verses on inheritance can be changed by means of “interpretation.” Similarly, those verses which require the husband to support his wife financially can easily be subjected to the requirements of the modern economic system by means of “interpretation.” With regard to texts requiring the woman to dress in accordance with the concept of ḥijāb, “interpretation” makes it easy to imbue them with new meanings which are more in keeping with modern notions and practices, while those verses which contain rules of etiquette and conduct for living together as husband and wife and which threaten to dull the glitter of Western civilization can, by means of “interpretation”, be put to use as a receptacle for anything and everything which is in harmony with this civilization. In short, the religion itself can be superseded by means of "interpretation." And thus it is that "interpretation" -- as these tricksters would have us believe -- is the fortress within whose impenetrable walls the religion and its precepts can be guarded!

At this point, I would like to ask my readers to consult their own reason, then tell me: What do you understand such claims to mean, and how can you believe them? How can you accept the dialectic which states that the continuation of religion requires that it be done away with? How can you accept that "reformist theology"[1] is that which relies on "interpretation", innovation and development of the religion until it reaches the point of complete divergence from its origin and roots? How can doing away with theology be the ideal means of ensuring its survival? Moreover, what is the place of "theology" in Islam, whether in relation to its doctrines which are founded on science, or in relation to its laws which revolve around reform?

We have no choice but to postpone an attempt at dialogue with such people on this and similar topics until such time as they experience an awakening from this deep, long slumber of theirs. Once this occurs, we can meet with them in a single world and build the logical bridges which are vital for any meaningful exchange.

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[1] The term "reformist theology" is used frequently by some researchers of this persuasion, who mix a bit of philosophy with a bit of science and shallow Islamic culture, then derive from this concoction whatever illusions they please.

As I conclude this study, I praise God first of all for enabling me to present this topic supported by proofs based on reason and documentary evidence despite the difficult circumstances which I was facing throughout the time I was writing this book. Secondly, I ask God to cause this study to be a firebrand which illumines the path leading to a knowledge of the truth and to the ability to cling to the truth once it has been found. Thirdly, I ask God to release us all from the chains of illusion and from the enticements which threaten to cast us into a sea of misconceptions and vague ambitions that distance us from the truth, thereby dragging us into the depths of lostness and desolation.

My final advice to each of my readers, after having reflected on what I have written and explained in these pages, is that you make whatever decision is in conformity with the conviction at which you have arrived. At the same time, I urge you to commit yourself to remaining steadfast to this decision even after your instinctual desires have abated and even as your youth gives way to middle age, then old age, and you see yourself approaching the end of your earthly existence and your departure to be with God. Make the decision which you yourself have chosen, then crown it with steadfastness to the end.

As for me, the conclusion which I have reached with respect to the topic of this book is a decision which I live with in this earthly life and with which I will be accompanied as I depart to be with God. It is a decision based on reason untainted by personal desire or instinct and in making it, I was not engaged in flattery or prejudice. I believe that the most steadfast, loyal friend a person can have in his or her lifetime is a well-reasoned decision which has not been compromised by outside influence or prejudice.

And now may praise be to God, by whose grace all good works are made possible.

* * *

المرأة

بين طغيان النظام الغربي ولطائف التشريع الرباني

Al-Mar'ah Bayna Ṭughyān al-Niẓām al-Gharbī wa-Laṭā'if al-Tashrī' al-Rabbānī

Dr. M. Sa'id Ramaḍān al-Būṭī

Despite increasing awareness of Islam throughout the Western world, there continues to be a prevailing belief among Westerners that Muslim women enjoy few, if any, genuine rights, and that whatever rights they do enjoy are the result of Western influence on the Islamic world. In: **Women Between the Tyranny of the Western System and the Mercy of the Islamic Law**, Dr. al-Būṭī details women's rights and freedoms as provided for by Islam in the professional, social, political, religious, academic and cultural spheres. In addition, he deals in careful detail with specific questions revolving around issues such as the Qur'anic teaching on males' and females' inheritance, polygamy, husbands' treatment of their wives, divorce and the "veil". In so doing, the author presents us with a well-documented, forthright study capable of providing people in Western societies with a more accurate understanding of Islamic teachings as they pertain to women and their roles in society.

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